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Matters of Concern to the Polity

**The Need for Democratic Renewal
to Enable Canadians to Hold
Governments to Account**



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Matters of Concern to the Polity

The Need for Democratic Renewal to Enable Canadians to Hold Governments to Account

TML Weekly is publishing views and commentary related to the political interference of the Trudeau government in a matter before the courts related to the engineering giant SNC-Lavalin. Given the disinformation promoted by the official circles in and out of government, it is important for Canadians to get a perspective on this scandal which helps them understand the depth of the crisis the establishment finds itself in as a result of all the state arrangements made to benefit narrow private interests in the name of high ideals. The desperation of Prime Minister Trudeau to help SNC-Lavalin is palpable and shows not only the pressure these narrow private interests are capable of putting on governments to serve their aims, but the extent to which both the party in power and the point men of the state such as the Clerk of the Privy Council bend over backwards to serve their interests.



In this case, the testimony given by the former Attorney General Jody Wilson-Raybould, known for the integrity with which she carries out her responsibilities, reveals the nature of the wheeling and dealing which goes on in the corridors of power behind the backs of the people. If the Attorney General could not be persuaded to agree to intervene in the case, at least she should

agree to find a way out for the government by getting "an outside opinion" while the Prime Minister's entourage would organize op-eds to build a credible case. In the course of this, everyone's image is tarnished, including the perception that former Justices of the Supreme Court are for sale, as in the case of Frank Iacobucci who has been hired by SNC-Lavalin to make its case to escape criminal charges so as to continue qualifying for government contracts. And the best part is that all of it is legal! In fact, what the government is arguing is that even though it may be "inappropriate" it is legal. And because so many jobs are allegedly at stake, maybe it is not so inappropriate after all. In fact, according to the narrative being spun, it is downright "appropriate" and therefore "legitimate!"

Wilson-Raybould noted that Clerk of the Privy Council Michael Wernick said as much in a December 18, 2018 phone call. She recounted him saying that "[the Prime Minister] wants to be able to say that he has tried everything he can within the legitimate toolbox." As for Trudeau's Chief of Staff Katie Telford and recently resigned Principal Secretary Gerald Butts, Wilson-Raybould recounted that they similarly wanted such a "solution," quoting a transcript of their conversation with her own Chief of Staff Jessica Prince. Butts is recounted as saying: "Jess, there is no solution here that doesn't involve some interference," while Telford remarked "we don't want to debate legalities anymore." This "characterization" of the conversations is expected to be contested when Butts testifies before the Justice Committee on March 6.

The facts attested to in the articles in this issue of *TML Weekly* speak for themselves. The performance of SNC-Lavalin in acquiring Atomic Energy of Canada Limited under the Harper government exposes the mantra about defending Canadian jobs as a fraud. The millions of dollars spent on bribing officials to acquire contracts in Canada such as to fix the crumbling Champlain Bridge, build the McGill megahospital, provide the infrastructure for a light rail commuter train, all in Montreal, amongst others, do not have job creation as their aim. Not least of all, every time SNC-Lavalin manages to get serious charges against it dismissed by the courts, the media with all their powers of investigation are silent. They prefer to let the insinuation hang in the air that Libya under Gadhaffi was a cesspool of corruption but in Canada we have rule of law. These are aberrations, not the rule.



Far from it! The SNC-Lavalin case before us reveals how what the political police call the liberal democratic institutions in Canada work; how they function to pay the rich. This is brought to light not because any of this is new, but because of the firm stand taken by the former Attorney General. The current SNC-Lavalin case shows what happens in Canada. The millions of dollars in bribes and the power of governments and the state power and the power over the courts are not a matter that one need surmise. The evidence is before us.

It also cannot escape the attention of Canadians that while the Trudeau government is introducing all manner of changes to the electoral law and a new *National Security Act* in the name of restricting "foreign influence" in Canadian elections so as to not permit the undermining of Canada's "liberal democratic institutions," the SNC-Lavalin case shows the lengths to which governments themselves interfere to undermine the very same "liberal democratic institutions." It is companies like SNC-Lavalin, whatever government is in power and the point men of the state who are engaged in bribery, threatening behaviour and subversion of what the political police call

Canada's liberal democratic institutions. What is democratic about that?

Besides other things, the SNC Lavalin case also shows the sense of entitlement of those who have privileged positions within the polity when it comes to breaking the law, engaging in what they know to be illegal acts and feeling that they can do so with impunity. Even when they are caught with their hands in the cookie jar, governments and the rich strata they protect can make laws that give them impunity.

Wernick's testimony is in complete violation of his position as Clerk of the Privy Council. The offensive that he is trying to take regarding his so-called worry about foreign interference in the upcoming election and the "rising tide of incitements to violence" is a pétard to extricate the Prime Minister, his office and the Privy Council itself from the mess that they find themselves in. Far from eliminating the role of privilege, it is all done to provide legitimacy to the increased use of police powers. The more it goes, the more government is exposed as having no moral justification whatsoever for its pay-the-rich schemes in the name of high ideals.

TML Weekly is also publishing material from the Party Press which recalls the 1995 sponsorship scandal from the days of the Jean Chrétien Liberal government. Desperate at that time to defeat the Quebec referendum and remain in power, the Liberal Party wallowed in corruption while all the parties in the House of Commons joined its "unity" bandwagon which violated Quebec election laws. The Gomery Commission into the sponsorship scandal revealed the extent of the corrupt practices for which the Liberals were subsequently turfed out of federal office. Before they left, the Liberals suggested they were addressing the sponsorship scandal by enacting limits on corporate contributions to political parties and candidates, saying this would end the "undue influence of money." The Harper Conservatives went further, banning corporate contributions altogether. None of this could change the essentially corrupt character of party government in Canada. Under the sanctimonious Harper government, corruption was practised on an even grander scale and now, under the sunny disposition of the Trudeau regime, it is grander still.

What is significant in all of this is how, in the same way as during the sponsorship scandal and under the Harper government, so today Canadians can see that it is not just a question of wrong-doing by certain individuals who need to be punished but never are. It is an indication of a fundamental problem that in this system called a representative democracy based on what is called responsible government, the people are powerless to hold those in power to account.

The spectacle shows how everyone from the Prime Minister to his staff, to the point men of the state past and present, the leaders of the other parties in the House of Commons and of the Official Opposition, former justices of the Supreme Court and the media at the disposal of maintaining the rule of narrow private interests over the polity, are all in it together. All of them divert the attention of the people away from discussing how the problem of being unable to hold governments to account can be solved.

The Liberals are taking the approach that this is just a question of different interpretations of events and discussions, while the Opposition is arguing about whether there should be criminal charges or a commission of inquiry. All are trying to cover up the fact that it is the system of representative democracy and the electoral process built on top of it which is in crisis and needs renewal. If what is legitimate is to be made the issue, then it is the process which brings party governments to power, over which the people exercise no control, whose legitimacy is brought into question by these unfolding developments.

Canada preaches to so-called third world countries to stamp out corruption. Oodles of money is spent on training foreigners to do things legally. In the case of Venezuela, in the name of

providing humanitarian aid and opposing the allegedly corrupt government and president, the Government of Canada is even backing a brutal coup d'état and appeasing plans of the United States to invade that country. Foreign Minister Chrystia Freeland struts around the world as the great white knight of the rule of law, democracy and the judge of what is "legitimate" in other countries and what is not. But this SNC-Lavalin case in fact reveals that Canada's corruption stands second to none. The difference is that in Canada everything is "legal." Attempts to present Canada's corruption as "legal" solicits nothing but contempt and condemnation but it will nonetheless be said that it is necessary and therefore "legitimate."

The position of the Marxist-Leninist Party of Canada (MLPC) during the sponsorship scandal more than 20 years ago, brought forward in this issue of *TML Weekly*, is particularly appropriate at this time:

"Today, as the anti-social offensive and the drive to embroil Canada in the aggressive wars led by U.S. imperialism are stepped up, the problem that the people cannot hold the government to account becomes increasingly evident and urgent. So long as Canadians do not participate in setting government agendas and are, on the contrary, at the mercy of whatever self-serving agendas the government, political parties and the media set, the problem of accountability will continue to plague the polity. Thus, the most important question which has emerged is who wields political power -- where the decision-making power is vested. While the question of power involves a myriad of elements, the cutting edge of the people's struggle for empowerment is to build the organizations through which they can put themselves into positions of influence by taking stands that defend the rights of the people and, on this basis, open society's door to progress and advance the cause of peace and human rights. This is the only way people can avert the dangers which those in power today are preparing. The program of the MLPC is to bring forward worker politicians and people's representatives to elect and be elected to form a Workers' Opposition in the Parliament. A Workers' Opposition can then go further and create an anti-war government which responds to the needs of the people at home and abroad."



Political Interference in the Case of SNC-Lavalin

Hearings of the Standing Committee on Justice and Human Rights -- the Significance of Wernick's Testimony

- Barbara Biley -

The Standing Committee on Justice and Human Rights of the House of Commons heard from witnesses this week at the public hearings it is conducting "for the study of the Remediation Agreements, the Shawcross Doctrine and the Discussions between the Office of the Attorney General and Government Colleagues." On February 21 the committee heard from Attorney General David Lametti; Deputy Minister of Justice and Deputy Attorney General Nathalie Drouin and Clerk of the Privy Council Michael Wernick. On February 27 the Committee heard former Attorney General Jody Wilson-Raybould and, besides others, it is scheduled to hear Prime Minister Trudeau's former Principle Secretary Gerald Butts on March 6. Butts resigned his post on February 18, saying in his resignation letter that he did this so as to "not take one moment away from the vital work the Prime Minister and his office is doing for all Canadians."

The hearings are being held to address concerns regarding accusations of attempts by the Office of the Prime Minister to influence the course of criminal proceedings against SNC-Lavalin. The accusations were first revealed in an article by Robert Fife in the *Globe and Mail* on February 7 in which the claim was made, citing "sources," that members of the Prime Minister's Office "pressured" then Attorney General Jody Wilson Raybould to use her authority to get the director of public prosecutions to reverse her decision and offer a remediation agreement to SNC-Lavalin.[1] A remediation agreement would have resulted in the staying of criminal charges that the company is facing. SNC-Lavalin is appealing the decision.

What Michael Wernick's Testimony Reveals

Mr. Wernick chose to preface his testimony with opening remarks which have scandalized the country in various ways, not least of which is how he used the hearings as a "bully-pulpit"[2] to present personal views of an inflammatory and defensive nature, contrary to the people's understanding of the impartiality expected from a senior public servant.[3] In this regard, Wernick's views seemed to have the aim of intimidating any individual or political force in the country that dares to challenge the status quo and express an opinion contrary to that of the ruling elite as currently represented by the Trudeau government. He opened by saying, "A lot has been said and written in the last few weeks and I think there are a couple of things that need to be clarified. I worry about my country right now, I'm deeply concerned about my country right now and its politics and where it's headed. I worry about foreign interference in the upcoming election and we're working hard on that. I worry about the rising tide of incitements to violence, when people use terms like 'treason' and 'traitor' in open discourse. Those are the words that lead to assassination. I'm worried that someone is going to be shot in this country this year during the political campaign."

Wernick next made reference to remarks made by Conservative Senator Michael Tkachuk at a pro-pipeline rally on Parliament Hill. The Senator was reported in the press to have told the rally "I know you've rolled all the way here, and I'm going to ask you one more thing: I want you to roll over every Liberal left in the country, Because when they're gone these bills are gone." The reference was to two bills before Parliament and clearly to "roll over every Liberal left in the country" was an appeal for voters to defeat the Liberals in the upcoming October federal election. Wernick, however, said, "I think that it's totally unacceptable that a member of the Parliament of Canada would incite people to drive trucks over people, after what happened in Toronto last summer. Totally unacceptable and I hope that you, as parliamentarians, are going to condemn that."

To accuse Senator Tkachuk of calling for the equivalent of the van attack in Toronto in which 10 people were killed and 16 injured degrades political discourse in Canada. It also provides feedstock to the Trudeau government's rationale to justify putting the police in charge of elections and deciding what is and is not legitimate speech.

Having raised the spectre of assassinations and other violence, along with claims that the reputations of honourable people are "being besmirched and dragged through the market square," and reference to the "trolling from the vomitorium of social media entering the open media arena," Wernick said that "Most of all, I worry about people losing faith in the institutions of governance in this country, and that's why these proceedings are so important." He then sought to reassure Canadians that they have nothing to worry about concerning the rule of law in this country, because everything that was done was legal.

Are we to understand that because he is an experienced civil servant, one of whose main qualifications is to not get involved in partisan politics, the committee conducting the hearings

should draw the same conclusion, that everything is legal and above-board? Wernick forcefully asserted that everything is working fine, "the prosecutor is independent," "the *Lobbying Act* worked as intended," "the ethics commissioner initiated his own process," "the shields held," the proof that the government is not "soft on corporate crime" is that "the company did not get what it wanted -- demonstrably, because they're seeking judicial review."

What is the purpose of this presentation?

Wernick made best efforts to present his actions as legal, along with those of others whose actions he is tasked with shielding from public scrutiny. But his testimony should in fact be seen as setting the stage for what is to come. Not without reason, he expressly conflated what is legal with what is presented as being "legitimate" for reasons of national security or job creation or a matter of being humanitarian, and the like. The most egregious violations of the fundamental principles guiding the rule of law nationally and internationally are dispensed with in the name of a cause said to make the actions "legitimate."

His personal concerns for his country served to raise alarm and create a climate of fear and suspicion of foreign actors and of one another, particularly in the context of the federal election, as a justification for increased police powers. This is the *modus operandi* paving the way to justify the criminalization of dissent and to silence all those who undermine the people's "faith in the institutions of governance in this country," the very point raised by the political police when they instruct political parties of what is "legitimate opinion" and what is not. Any opinion contrary to the official state position is considered to be "illegitimate." This is in line with measures taken to expand the role of the state's intelligence agencies in elections and the attempts to enforce officially sanctioned political opinion.



When everything is said and done it looks like Michael Wernick made the ultimate medieval chivalrous gesture of falling on his own sword, considering himself the consummate civil servant, devoted to defending the person of state in these troubled times. At a time the shameless pay-the-rich corruption and shenanigans of consecutive governments have shattered "faith in the institutions of governance," what the Clerk of the Privy Council has come to tell the nation amounts to saying, it is not only all "legal" but, more importantly, "legitimate" because of the high ideals involved to save jobs and, in any case, you are powerless to do anything about it. At a time, the "institutions of governance" are being called into question by the polity precisely because they are instruments to serve the rich, the servants of the Canadian state rise to defend this practice. In the corridors of power, laws can be snuck in which make whatever the rich demand legal, while the coterie in government, the highest position in the civil service, former justices of the Supreme Court and the media argue the merits, by making themselves the decision-makers on what is "legitimate" and what is not.

Notes

1. A Justice Department backgrounder titled "Remediation Agreements and Orders to Address Corporate Crime," states that remediation agreements can be used by prosecutors "at their

discretion to address specified economic crimes if they consider it to be in the public interest and appropriate in the circumstances." It goes on to explain, "A remediation agreement would be a voluntary agreement between a prosecutor and an organization accused of committing an offence. Agreements would set out an end date and would need to be presented to a judge for approval. [...] While an agreement is in force, any criminal prosecution for conduct that is covered by the agreement would be put on hold. If the accused organization complies with terms and conditions set out in the agreement, the prosecutor would apply to a judge for an order of successful completion when the agreement expires. The charges would then be stayed and no criminal conviction would result. If the accused did not comply, the charges could be revived and the accused could be prosecuted and potentially convicted."

In considering a company for a remediation agreement, "if the organization is alleged to have committed an offence under section 3 or 4 of the *Corruption of Foreign Public Officials Act*, the prosecutor must not consider the national economic interest, the potential effect on relations with a state other than Canada or the identity of the organization or individual involved." In other words, amongst the reasons that could be given for offering a remediation agreement, the future of the company is not a legal option available.

2. The term "bully pulpit" was coined by U.S. President Theodore Roosevelt, who referred to his office as a "bully pulpit," by which he meant a terrific platform from which to advocate an agenda. Roosevelt used the word bully as an adjective meaning "superb," "wonderful" or "first-rate," a more common usage at that time, not the noun bully ("a blustering, browbeating person"), that is common today. (*Merriam-Webster Dictionary*)

3. The Government of Canada's Privy Council website says the role of the Clerk "is to advise the Prime Minister and elected Government officials in managing the country. The Clerk does so from an objective, non-partisan, public policy perspective. He also ensures Canada's federal public service is managed effectively and follows a code of value and ethics in its work to design and deliver high quality services and programs for Canadians and their families."

The Corruption of the Liberal Government Judged by the Standards Set by the UN Convention Against Corruption

- Diane Johnston -

Prime Minister Trudeau himself and members of his government, as well as public servants, such as Clerk of the Privy Council Michael Wernick, go to great lengths to assure us that absolutely nothing illegal has been done in government dealings with SNC-Lavalin. Even the former Attorney General, Jody Wilson-Raybould, says that what was done is not illegal but improper. And not a few of the commentators and pundits have pointed out that this is where the real scandal lies -- that all these self-serving things are done legally. And there's the rub!

Definitions are being provided of what constitutes corruption, what is legal and what is proper, and all of it is conflated with what is legitimate. In fact, the crux of the matter lies in who does the defining of what's what.

The standards set by the UN make a distinction between "grand" (political) corruption and "petty"

(bureaucratic) corruption. This SNC-Lavalin case no doubt illustrates both. But, above all else, it shows that Canada is corrupt because in Canada corruption is defined by those who seek to legitimate their actions by claiming higher motives such as the "national interest," "job creation," "humanitarian aid," "freedom" and "democracy."

The government's approach, which is to distance itself from corruption by conflating what is legal with what is "legitimate," ignores a crucial element of the international law regime enshrined in the UN Convention Against Corruption, signed by Canada on May 21, 2005 and ratified on October 2, 2007.

Article 13 of the UN Convention Against Corruption, under the heading Participation of Society, states:

1. Each State party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

(a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes; ...

In a paper titled "Corruption Definitions and Concepts," Inge Amundsen identifies the main forms of corruption as bribery, embezzlement, fraud and extortion.^[1] He writes:

"The decisive role of the state is reflected in most definitions of corruption. Corruption is conventionally understood, and referred to, as the private wealth-seeking behaviour of someone who represents the state and the public authority. It is the misuse of public goods by public officials, for private gains. The working definition of the World Bank is that corruption is the abuse of public power for private benefit. Another widely used description is that corruption is a transaction between private and public sector actors through which collective goods are illegitimately converted into private-regarding payoffs. (Heidenheimer et al. 1993:6)"

Amundsen cites Mushtaq Kahn who defines corruption as "behaviour that deviates from the formal rules of conduct governing the actions of someone in a position of public authority because of private-regarding motives such as wealth, power or status. (Kahn 1996:12)"

Amundsen distinguishes between political corruption and bureaucratic corruption ("grand" v "petty"). Political corruption is the use by political decision-makers of the political power they are armed with to sustain their power, status and wealth. It is the tailoring of policy formulation and legislation to benefit politicians and legislators.

Amundsen writes that "Political corruption implies the manipulation of political institutions and the rules of procedure, and it consequently distorts the institutions of government. Political corruption is a deviation from the rational-legal values and principles of the modern state and leads to institutional decay. The basic problem of political corruption is the lack of political will to encounter the problem: the power-holders do not wish to change a system of which they are the main profiteers." This is exactly what is taking place in this instance.^[2]

On December 17, 1997, Canada also signed the Convention on Combating Bribery in International Business Transactions of the Organisation for Economic Co-operation and

Development (OECD Convention). In 1998, Parliament passed the *Corruption of Foreign Public Officials Act* (CFPOA) to implement Canada's obligations under the OECD Convention into Canadian law.

The aim of the OECD Convention is said to be to stop the flow of bribes and to remove bribery as a non-tariff barrier to trade, producing a level playing field in international business.

In June 2013, Parliament amended the CFPOA to increase the maximum penalty for convicted individuals, to create a new books and records offence and to expand jurisdiction based on nationality. In addition, the 2013 amendment stated that at a later date the government would eliminate the exception for facilitation payments. Facilitation payments are those made to foreign public officials to secure or expedite the performance of acts of a routine nature that are within the scope of the official's duties. The repeal came into force on October 31, 2017 and such payments are now included under the foreign bribery offences listed in the CFPOA.

A Government of Canada overview of this Convention reads:

"No country is entirely free of corruption. But if corruption is deep enough it can hinder economic growth and good governance, and decay the fabric of society. Corruption is an obstacle to sustainable development, with the potential to enlarge economic gaps and breed organized crime. Unchecked corruption leaves little room for democracy to flourish; little room for freedom to expand; little room for justice to prevail.

"We have made significant gains in the global fight against corruption. Better understandings of its economic, political and social costs have spurred recent international efforts to fight corruption, encourage transparency and increase accountability. Canada strongly supports international efforts to combat corruption, regarding it as a good governance issue, a crime problem, and a drag on economic, social and political development."

The example of the Government of Canada's handling of the SNC-Lavalin case definitely does not corroborate these claims. Besides anything else, this case has brought to light that the Trudeau government slipped a remediation agreement into the budget mega bill which permits the Chief Prosecutor of Canada to stay criminal charges that a company faces. This has been done under the pretext of high ideals and because it is done by the UK and some other countries as well.

Canada has placed itself on myriad international bodies as a grand defender against corruption. However, the actions of the Trudeau government, not just on SNC-Lavalin but on all the files on which it promised to deliver justice, have irreparably tarnished Canada's claim to uphold the rule of law. Damage control will now try to present a case that not only it was legal but not inappropriate because it is a legitimate use of prerogative powers.

What is legitimate, who is legitimate and who decides have become the crucial matters of concern for the polity in this sordid affair.

Notes

1. Inge Amundsen is a political scientist whose focus is democratic institutionalization, political economy, parliaments, political parties, political corruption, and natural resources. He identifies the main forms of corruption as bribery, embezzlement, fraud and extortion.

2. Inge Amundsen, "Corruption: Definitions and Concepts, Draft" (January 17, 2000), Chr Michelsen Institute Development Studies and Human Rights.

Protecting Jobs Is of No Concern in This Imbroglio

- Louis Lang -

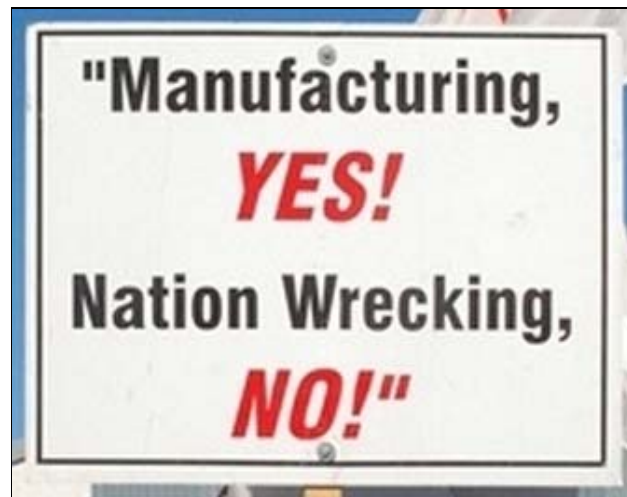


Strike in July 2012 by 800 nuclear scientists, engineers and technologists at Candu Energy, a wholly-owned subsidiary of SNC-Lavalin Inc. created in 2011 after the acquisition of the commercial reactor division of Atomic Energy of Canada Ltd. from the government of Canada.

SNC-Lavalin's position has been that it should be considered for a remediation agreement instead of being prosecuted because it claims that the bribery charges it faces are without merit and stem from "alleged reprehensible deeds by former employees who left the company long ago."

However, the main argument given to defend SNC-Lavalin is that a conviction on charges would bar the corporation from bidding on government contracts for ten years. Those defending the position of the Trudeau government claim that this would jeopardize thousands of good jobs.

Looking at the matter solely to examine whether or not SNC-Lavalin and its lobbyists and government insiders have engaged in criminal activities completely covers up the relationship between governments, both Liberal and Conservative, and the private interests which they have acted to protect at the expense of public control of important sectors of the economy. Their pretense of protecting SNC-Lavalin for the sake of "good jobs" is a total lie because giving preference to SNC-Lavalin for decades has destroyed thousands of jobs to build and operate public infrastructure that has been systematically handed over to private interests.



A most vivid example is the destruction of Atomic Energy of Canada Limited (AECL), a Crown corporation founded in 1952 with a mandate to develop nuclear energy technology. AECL developed the CANDU reactor technology in the 1950s and, until its sale to SNC-Lavalin in 2011, was also the vendor of CANDU technology which it had exported worldwide. Throughout the 1960s to 2000s, AECL built CANDU facilities in India, the Republic of Korea, Argentina, Romania and the People's Republic of China.

In June 2011, AECL was sold to SNC-Lavalin for \$15 million. Not only did SNC-Lavalin pay a fraction of the value of AECL, which many experts described as a fire sale price, the government also gave SNC-Lavalin \$75 million to complete development of a new reactor called Enhanced CANDU 6. At the time of the sale the yearly earnings of AECL were approximately \$500 million. Even if the considerable assets built up by AECL are not taken into account, it is the height of hypocrisy to deny that this was a gift by the Harper government to SNC-Lavalin.

The positions of the unions representing AECL workers were strongly against this action precisely because it meant the loss of thousands of jobs, not just in the Crown corporation but many other thousands of jobs among the corporation's suppliers. Michael Ivanco, Vice-President of the Society of Professional Engineers and Associates, stated at the time that the sale would result in a "hollowed out company," and could cost thousands more jobs among the corporation's suppliers. "It may contribute to brain drain not seen since the Avro Arrow, as engineers, scientists and others evaluate their long term careers with the company," Mr. Ivanco declared. "We are shocked and angry that the Harper government conducted this sale behind closed doors without any input from the Canadian public or Parliament. They jammed legislation through the budget that gave cabinet the right to make decisions instead of Parliament and now we see the results," he added. The union also pointed out that close to 800 jobs were jeopardized by the SNC-Lavalin takeover.

It was well known that many reactors built by AECL were in need of refurbishing at that time. The Harper government used the opportunity to destroy AECL and take the nuclear industry out of public control, following which SNC Lavalin signed billions of dollars worth of contracts to refurbish reactors in Canada and internationally. A scam is a scam, legal or not.



Nuclear scientists hold information picket to defend Canada's nuclear expertise against privatization, Chalk River Laboratories, September 9, 2014.

TML Daily wrote on January 24, 2014:

"The privatization of AECL is damaging for the national economy now and in the future. It has resulted in the loss of close to one thousand jobs and the potential loss of thousands of jobs in the future. It has taken a very important technology, the secure development of nuclear energy, out of the public domain and handed it to a monopoly corporation which will take advantage of the needs of the whole society for electrical energy. Nuclear energy clearly impacts on the health,

safety and well-being of all Canadians and must never be allowed to be the private domain of a monopoly corporation whose only interest is maximum profit. The Harper government has even chosen to ignore the fact that SNC-Lavalin has been embroiled in allegations and findings of irregular payments to public officials, misconduct, corruption and bribery in projects in Canada and other parts of the world."

AECL's dismantling was all achieved through legal measures, including legislative changes so that Canada can say it abides by the rule of law. The Trudeau government has continued the same policy of destroying public control over the building and operation of public infrastructure, which is the overwhelming consideration in all these decisions and has nothing to do with "protecting jobs."



SNC-Lavalin and the Charbonneau Commission

- Pierre Chénier -

The current turmoil around SNC-Lavalin's corruption reminds us that it is workers in Quebec and Canada who pay the price for corporate and state corruption.

The case of SNC-Lavalin and the Charbonneau Commission is still fresh in peoples' minds. This commission was set up in 2011 by the Liberal government of Jean Charest, after years of refusal to publicly discuss corruption involving large construction and engineering companies in connection with the financing of political parties. The official mandate of the Charbonneau Commission was to eradicate collusion and corruption in the awarding of public contracts in construction, to reveal the possible links between this corruption and the financing of political parties and the possible infiltration of the construction industry by organized crime.

The corrupt activities of SNC-Lavalin, the largest engineering and construction management company in Canada, were at the centre of the Charbonneau Commission. Two aspects in particular were noted by the Commission.

The first is the illegal financing by SNC-Lavalin of municipal political parties (Union Montréal) and Quebec parties (especially the Liberal Party, but also the Parti Québécois) in exchange for contracts from the City of Montreal and Quebec government ministries. The law prohibits businesses (and unions) from making financial contributions to Quebec political parties.

All kinds of illegal tactics have been used by SNC-Lavalin to circumvent this law, including having dozens of its executives issue personal cheques to political parties, while the money actually came from the company itself, as the company reimbursed its executives with "bonuses" at the end of the year.

The Commission has estimated that from 1998 to 2010, more than \$1 million was illegally paid by SNC-Lavalin to the two main Quebec political parties of the day. It was also revealed during the hearings that SNC-Lavalin illegally provided \$200,000 to the Union Montréal party to help it win the 2005 Montreal municipal election. The company did so by paying a fake bill from Union Montréal and by providing money in cash to the Montreal party fundraiser. All this was done under the pretext that it was "the price to pay for doing business" and that SNC-Lavalin had to remain in the "market" for public contracts.

	TOTAL PLQ		TOTAL PQ		TOTAL GÉNÉRAL		Valeur totale des contributions maximales de 3000\$	
	NB	\$	NB	\$	NB	\$	PLQ	PQ
1998	9	14 375 \$	10	20 600 \$	19	34 975 \$	6 000 \$	9 000 \$
1999	12	24 650 \$	15	37 000 \$	27	61 650 \$	18 000 \$	27 000 \$
2000	9	20 650 \$	16	36 520 \$	25	57 170 \$	18 000 \$	30 000 \$
2001	9	20 900 \$	19	35 525 \$	28	56 425 \$	12 000 \$	18 000 \$
2002	17	43 000 \$	23	35 900 \$	40	78 900 \$	36 000 \$	24 000 \$
2003	20	50 400 \$	21	36 750 \$	41	87 150 \$	39 000 \$	24 000 \$
2004	19	52 500 \$	11	32 250 \$	30	84 750 \$	48 000 \$	24 000 \$
2005	21	52 850 \$	21	52 000 \$	42	104 850 \$	48 000 \$	45 000 \$
2006	24	60 600 \$	17	51 000 \$	41	111 600 \$	54 000 \$	51 000 \$
2007	22	59 150 \$	19	54 500 \$	41	113 650 \$	54 000 \$	54 000 \$
2008	23	61 950 \$	17	48 000 \$	40	109 950 \$	57 000 \$	45 000 \$
2009	35	101 200 \$	12	36 000 \$	47	137 200 \$	96 000 \$	36 000 \$
2010	7	7 700 \$	2	900 \$	9	8 600 \$	3 000 \$	-
TOTAL	227	569 925 \$	203	476 945 \$	430	1 046 870 \$	489 000 \$	387 000 \$

Document compiled by the Charbonneau Commission shows the money SNC-Lavalin allegedly handed over to political parties.

The second case is the scandal of the McGill University Health Centre (MUHC). The Commission disclosed the scheme by which SNC-Lavalin paid bribes of \$22.5 million to two senior MUHC officials to win the \$1.34 billion contract in 2010 for the new university hospital, a public-private partnership (P3). The illegal monies were paid to the two senior officials of the health centre through false companies set up by them. One of the MUHC officials, Arthur Porter, by the most wonderful coincidence, was made Chairman of the Security Intelligence Review Committee by Prime Minister Stephen Harper also in 2010. The MUHC case has been characterized at hearings as the largest corruption fraud in Canadian history. It should be noted that all the so-called ethical rules surrounding the granting of public infrastructure projects in public private partnerships have not prevented this fraud.

SNC-Lavalin has not been prohibited from participating in the consortia of private companies that bid on public infrastructure projects and this case was not used as the opportunity to reassess P3 projects that naturally lend themselves to corruption and fraud involving private interests and their political representatives. It should also be noted that SNC-Lavalin, which obtained the construction contract for the new Champlain Bridge, is known for its attacks on the health and safety of construction workers and, by extension, of the public. Construction workers have had to constantly fight the company's violation of safety standards, particularly with regard to crane operation, to which the government has turned a blind eye. This is a clear cut case of corruption and collusion between SNC-Lavalin and the state but the Charbonneau Commission did not consider an investigation of these activities to be within its mandate.

Workers Attacked in the Name of the Fight Against Corruption

In its assessment of the events addressed, the Charbonneau Commission extended the concept of corruption and organized crime to workers' collectives and their allied organizations that carry out concerted action to defend workers' rights, which sometimes leads to the disruption of construction site activities. The Commission insinuated that these actions were similar to mafia activities. The Commission made this assertion without even considering the purpose and reasons for which the organized workers took these actions, the cause they were defending and the result

they sought to achieve. "Corruption" has been equated with restricting the so-called free market, the right of companies to operate sites as they see fit, in pursuit of private profit, even if the health and safety of workers and the public is threatened. In the voluminous report of the Charbonneau Commission, not a single page reveals the collusion between the government/public authority and companies like SNC-Lavalin from the point of view of the violation of the rights of workers and their health and safety.



Yves Ouellet (at mic), then-president of FTQ Construction, defended the struggles of construction workers against the Charbonneau Commission's slanders that workers were using intimidation akin to corruption and organized crime. The intention of this slander was to divert attention from who is responsible for corruption and organized crime -- not the workers but the collusion between governments and the big construction companies.

On the contrary, it is the workers and their defence organizations that are accused of corruption and of activities akin to those of organized crime, which the Commission calls intimidation and collusion between workers.

That is why, in its recommendations, the Charbonneau Commission proposed an amendment to the *Act respecting labour relations, vocational training and workforce management in the construction industry* (R-20 legislation). The amendment changes the wording of the law from reference to the use of "intimidation or threats to cause an obstruction" to "intimidation or threats likely to cause an obstruction" and anyone found guilty would be subject to huge fines. The Charbonneau Commission also recommended that any union representative found guilty of violating these provisions would be prohibited from representing the workers for five years. The Quebec government was only too happy to implement this recommendation.

This is one of the ways that workers and their organizations pay the price for corruption between big business and the state.



The Pretext to Make Political Parties Appendages of the State

- Geneviève Royer -

During the Charbonneau Commission, the illegal financing of political parties by SNC-Lavalin and others was the subject of lengthy testimony. The Commission examined every detail and those details revealed the extent of the illegal funding. And yet, no representative of SNC-Lavalin or of other companies has been prosecuted for this illegal financing of the parties in Quebec. None of the targeted parties or their candidates who solicited or accepted these illegal donations has been charged or disciplined or prevented from running for election.

The illegal financing of political parties in Quebec has instead been used to further increase state control of political parties to make them appendages of the state.

On June 10, 2016, the National Assembly unanimously adopted Bill 101, an *Act to give effect to the Charbonneau Commission recommendations on political financing*. This law claims to address the serious problem of corruption in the party system that was revealed by the Charbonneau Commission. It claims to do so by establishing mechanisms by which citizens can hold elected officials to account.

But the opposite is the case. The "fight against corruption" expressed in this law subjects the activities of political parties to state control and gives increased police powers to the Chief Electoral Officer of Quebec (DGEQ), allowing him to interfere in the affairs of political parties, to make life more difficult for political parties, especially emerging parties, and to institutionalize the intimidation of individuals who want to participate in politics.

By way of example, in the name of "countering false volunteering," the law has added control measures whereby parties must ensure that volunteer work is done without compensation or other reward. From now on, official representatives, delegates, official agents and deputies must undergo training prepared by the DGEQ within a prescribed timeline. In the name of accountability, financial reports and expense returns must be signed by the party leader, candidate, deputy or, as applicable, the highest ranking official designated by the party. These must also be accompanied by a declaration on the rules regarding financing and election expenses. The Act also makes it a criminal offence for electors to make a false declaration regarding a loan or surety. Such an offence is considered a corrupt electoral practice. In the wake of this legislation, harassment of donors has increased, sometimes even with visits to their homes, which is very intimidating for ordinary people who want to participate in political affairs by making a donation to a party. The Charbonneau Commission even recommended that the donor must indicate on the contribution slip the name of his or her employer, a most intimidating measure. The government incorporated this measure into the bill and then withdrew it in the face of opposition from voters. These are police measures that have nothing to do with the mobilization of voters in politics, according to their conscience, to solve the problems of society in favour of the people.

Making political parties appendages of the state does not solve the problem of corruption that occurs at the highest level, with the usurpation of the power of the state and governments by global private interests. The ruling elite itself corrupts all organs of state power and government institutions so that only police powers remain. It is only the struggle of the workers and people for the democratic renewal of institutions by vesting power in the people that can get rid of corruption.

How the Justice System Treats the Criminal Acts of SNC-Lavalin

While workers, including construction workers and their unions, pay the price for corporate and state corruption, SNC Lavalin and its top executives fare very well before the courts when they do face charges.

The best-known case is that of Pierre Duhaime, who was the CEO of SNC-Lavalin at the time of the McGill University Health Centre (MUHC) corruption scandal. SNC-Lavalin paid \$22.5 million in bribes to two leading MUHC officials to win the \$1.34 billion contract for the public-private partnership construction of the new university hospital in 2010. The bribes were paid to these two MUHC executives through companies registered to them. During the hearings of the Charbonneau Commission, this scheme was described as the biggest corruption fraud in Canadian history.



There were 15 charges originally lodged against SNC-Lavalin's former CEO by the Quebec Director of Criminal and Penal Prosecutions, including fraud and corruption. On February 1, right in the middle of the SNC imbroglio, Duhaime accepted a plea deal in which 14 of the charges were dropped. He pleaded guilty only to a charge of breach of trust by not intervening when he was aware that a criminal act was being committed, namely assisting the former Deputy Director General of the MUHC to rig the tender so that SNC-Lavalin was awarded the contract over a competing consortium. In return for the tender being awarded to SNC-Lavalin, bribes were paid to the two MUHC officials.

Pierre Duhaime was not sentenced to jail, but to 20 months' house arrest which he will serve in his luxury home, with increasingly flexible conditions over the 20 months, and one year's probation. He will also have to do 240 hours of community service and make a \$200,000 donation to the Centre for Victims of Crime.

In July 2018, also in connection with the MUHC's corruption scandal, former vice-president of SNC-Lavalin's construction division, Riadh Ben Aissa, was convicted on a reduced charge of using false documents. Fifteen other charges against him were dropped. He was sentenced to 51 months in prison. He only spent one day in prison because the court included in the 51 months' detention the months he had already spent in jail in Switzerland on another charge related to bribes paid by SNC-Lavalin to Libyan officials during the early 2000s.

Also, the same month, SNC-Lavalin's financial controller, Stéphane Roy, was acquitted on two counts of fraud and the use of false documents related to the same case, after the prosecution simply announced that it would not present any evidence against him.

Finally, for now, in February a former SNC-Lavalin executive and his lawyer obtained a stay of proceedings on charges of attempting to bribe a witness. Sami Abdellah Bebawi and his attorney, Constantine Kyres, had been charged with attempting to bribe Riadh Ben Aissa to change his testimony regarding crimes that SNC-Lavalin was alleged to have committed in Libya. The stay of proceedings was decided in accordance with the 2016 Supreme Court of Canada Jordan decision,

according to which the length of judicial proceedings must not exceed two and a half years in the Superior Court, except in exceptional circumstances. The two men were charged in 2014.

In November 2018 another former vice-president of SNC-Lavalin, Normand Morin, pleaded guilty to two of five charges relating to illegal contributions to two federal political parties, the Liberal Party and the Conservative Party, between 2004 and 2011. SNC-Lavalin created a "straw man" scheme whereby employees contributed to the parties and were reimbursed by the company. The fraudulent manoeuvre brought in about \$117,000 to these two parties. The Crown dropped the remaining three charges. Morin was fined \$2,000. Since the former executive, who asserted he was a scapegoat in this case, had pleaded guilty before the case went to trial, and as he was the only accused in the case, others having escaped prosecution through a 2016 settlement agreement worked out with Elections Canada, the prosecution stops there and we will never know which constituencies, which candidates or which party leadership candidates received donations from SNC-Lavalin. The guilty plea concludes the investigation by the Commissioner of Elections Canada into SNC-Lavalin. The engineering firm itself admitted to the Commissioner that it had made illegal contributions, but it did so without penalty through the 2016 settlement agreement with Elections Canada. The amounts received illegally were remitted to the federal authorities by the political parties concerned.

SNC-Lavalin has always maintained that the corrupt acts were committed by isolated individuals who are no longer part of the organization. The facts over the years reveal systemic corruption involving state and government officials and the courts, including less than vigorous prosecution, dropped charges and light sentences.

The Party Press on the Sponsorship Scandal

Grand Illusion of Free and Fair Elections in Canada Comes Tumbling Down

- TML Daily, April 22, 2005 -

"Throughout 2005, the interest of Parliament, the media, and the nation was held by the Gomery Inquiry into what became known as the 'sponsorship scandal.' By May, the impact of the scandal nearly brought down the minority Liberal government on a non-confidence vote held on the budget. In November, when the first Gomery Report was released, the parliamentary opposition coalesced to force the minority Liberal government into a general election. On January 23, 2006, the election results provided evidence of how voters may have viewed the scandal when the Liberal Party lost the election.

"Until the issue hit the front pages in early 2004, the federal government sponsorship program had been in operation quietly, but not altogether anonymously, since 1994. Under intensifying media coverage and in tandem with two critical reports from the Auditor General, the program slowly evolved into one of the most prominent and extensive political scandals till then in Canada. The program's tentacles reached as high as the Prime Minister's Office and included the Liberal Party, two former prime ministers, ministers of the Crown, Quebec advertising agencies, and Justice Gomery himself. While under investigation by the Gomery Commission, the program was the subject of an RCMP inquiry and criminal prosecutions for fraud." - Kirsten Kozolanka, Canadian Journal of Communication.

A beleaguered Paul Martin addressed the country yesterday evening to plead with Canadians to consider him an honourable man. His notion of claiming responsibility was to repeat that he is in no way implicated in the "wrong-doing" associated with the sponsorship scandal and those who were will be punished. Martin referred to his actions of closing down the Canada Information Office and subsequently Communications Canada as his first act on assuming the leadership of the Liberal Party and becoming the *de facto* Prime Minister of Canada. These are proof of his sincerity, he said. We should presumably forget the statement by his Finance Minister Ralph Goodale at the time that they were being closed down: "I think we have come to the conclusion that [the sponsorship program] ... has outlived its usefulness and it's time to move on."

To further prove that he is an honourable man, Martin cited his establishment of the Gomery Inquiry, the recall of Alfonso Gagliano from Denmark and other such actions. For good measure, he told his audience that he, who cut his milk teeth on his father's lap in the very same Parliament buildings, could not possibly do anything to tarnish its reputation.

Leaving aside the fact that Jean Chrétien himself went to great lengths to honour his own political legacy to cover up the scandal he created, Martin's claims convince only the most politically naive that he is taking responsibility. On the contrary, these actions are widely perceived as an attempt at damage control. Now, not only has this system of damage control completely unravelled, but it is taking on a life of its own. In spite of this, Martin continues to believe he is still in damage control mode. It is a miscalculation which more likely than not will sooner or later end his political career.

Far from still being in damage control mode, everyone awaits the "Heidi Fleiss List" -- the names of the "lawyers, engineers or accountants from major firms" referred to by Benoit Corbeil, the former director-general of the Liberal Party's office in Montreal, to say nothing about "many of the lawyers who have since been named to the bench." All of them will yet rue the day that Canada's inbred political caste is so small.

Furthermore, the problems facing Martin and the Liberal Party presumably don't end there either. What will be the response of Elections Canada when the extent of the corruption of its much touted system of "free and fair elections" finally sees the light of day? Will it apply the letter of the law and disqualify all the Quebec candidates of the Liberal Party from ever running again? What of those who got elected in Quebec in the 2000 election? Will all of them lose their right to ever run again or even vote? When even a humble independent candidate who doesn't submit her or his returns on time faces such draconian measures, what is to be made of a Liberal Party which hides its financial activities from Elections Canada? Stating in an interview that funds from the sponsorship program were funnelled back to senior members of the Liberal Party, Corbeil said: "I took the bills [from Jean Brault of Groupaction Marketing] and with that, I paid people, without declaring it [to Elections Canada]."

What about the \$1.75 cents per vote the Liberals gleaned as a result of Chrétien's reform to election financing laws? Will the Liberal Party pay all that money back to the federal treasury as well, besides all the sponsorship funds the Bloc Québécois is demanding be immediately be put into a public trust pending the outcome of the Gomery Inquiry?

The revelations coming out of the Gomery Inquiry indicate that the Liberal Party will do more to bring down the grand illusion that elections are free and fair in Canada than anything hitherto seen by Canadians.

The Gomery Commission

The Gomery Commission was established on February 19, 2004 by the Liberal Cabinet led by the Prime Minister of the day, Paul Martin. The scope of the inquiry was set as follows:

- a) to investigate and report on questions raised, directly or indirectly...in the November 2003 Report of the Auditor General of Canada... with regard to the sponsorship program and advertising activities of the Government of Canada, including:
 - i) the creation of the sponsorship program;
 - ii) selection of communications and advertising agencies;
 - iii) management of the program;
 - iv) receipt and use of any funds or commissions disbursed; and
 - v) any other circumstances related to the program considered relevant to fulfilling the mandate.

Speaking to the illusion making about the Gomery Inquiry, the Marxist-Leninist Party of Canada (MLPC) wrote:

"... there is one key issue at the root of the sponsorship scandal -- the party dominated system of representative democracy, the electoral laws designed to elect a political party and to disempower the people and their fanatic need for money to make it happen. Why a political party in Canada was allegedly involved in stealing funds from the public purse and funnelling them into its election campaign coffers is going to be completely detached from the issue of the political system in which masses of people are treated as mere voting-cattle. The issue is not going to be touched upon at all by the Gomery Inquiry or by the Public Accounts committee looking into the same scandal." [1]

The developments reveal that this central issue to the sponsorship scandal was indeed completely overlooked/disregarded by the Gomery Commission of Inquiry and the government. In fact, neither the Gomery Inquiry nor the Harper government took up the issue of political accountability. The Gomery Inquiry identified the problem of accountability in administration generally (defining responsibilities) and more specifically partisan interference in terms of the administration of programs by the public service and, to an extent, in the ability of Parliamentary Committees to hold government accountable.

The problem of political interference/partisanship was attributed to certain individuals whose conduct was wrong. On this and the other issues identified, administrative measures were proposed to deal with the problem. The assumption was that, if implemented, they would restore accountability of government to parliament and parliament to society.

In the preamble to Restoring Accountability, Justice Gomery sketches the framework of accountability that the parliamentary system brings to the Canadian democracy. [2]

It goes like this:

The principle of the supremacy of Parliament establishes Parliament as the body that creates the laws that give powers to Ministers and the rest of the executive, and the body to which the executive must be accountable.

Parliament through statutes and budgetary processes, assigns powers and resources to the Government.

The government administers these powers and resources, while Parliament holds Government

accountable for its stewardship.

Ministers and the Public Service form the executive branch of government. The executive branch derives its powers and its authority from Parliament and, in turn, is accountable to Parliament and, through Parliament, to the people of Canada.

The principle of ministerial responsibility identifies the members of Cabinet, collectively and individually, as the persons at the head of the executive branch who hold broad responsibility and exercise the power to govern.

The principle of rule of law provides an overarching framework that both enables and limits the actions of the Government.

Gomery says:

"Parliament is the central forum in which the Government is held directly to account for both policy and administration. Ministers are accountable collectively to Parliament for policy and for the Government's actions or failures to act, and they are ultimately accountable to the people of Canada through general elections.

"Parliament holds Government accountable in two ways. First it holds the Cabinet collectively accountable for its policies, for its responses to the challenges facing the nation and its stewardship of the public sector and the business of governing the nation. Second it holds the Government accountable for the way it has used the powers and resources that Parliament has granted it. This accountability applies to administration, not policy, and it must be directed to those who hold responsibility for administration."

Position of the MLPC

The MLPC wrote: "A fundamental problem with this rendering is that the conception of accountability is detached from where the sovereign power is vested and whose interests it protects. So long as the historic need to vest the sovereign power in the citizenry is not addressed, the problem of accountability cannot be sorted out."

In *A Power to Share*, published in 1993, the MLPC's then National Leader Hardial Bains discussed among other things, how the problem of accountability poses itself within the Canadian system of government.

"... the problem is that under the circumstances in which people are deprived of sovereign power and of a mechanism through which to exercise it, they are not able to freely choose who governs on their behalf. Political parties have virtually exclusive jurisdiction over this matter.

[...]

"In fact, there is no mechanism to make the elected representatives or the government accountable to the electorate. The only recourse provided to the citizenry is to vote an unpopular government out of office at the next election. It is interesting that both transparency and accountability serve their purpose when they divert attention from the fact that it is in all cases the government which commands the process. They are merely part of the tinsel and tassels with which the executive power wraps itself to cover up the fact that it is the sole decision-making power.

"All of these means are used to ensure that the electorate is deprived of its right to participate in governing society.

[...]

"These jurisdictions are getting increasingly transformed into absolute powers through the reforms which are being enacted. Those with access to political power still need a method to sort out the contradictions in their own ranks and keep the people out of government. The word democracy has come to mean using democratic forms to achieve what are actually undemocratic ends. The democratic form is becoming a mere remnant of democracy, and it is increasingly becoming synonymous with the set of laws which sanction the rule of political elites. This is justified by evoking various terms, including precedent, traditions, evolving institutions, democracy as we know it and various others.

"The character of supreme power and its origins is not separate from the character of the government and the interests it serves. The two are inter-related. The political process or political system facilitates the wishes of the supreme power. If the political process remains the same and if the only changes concern the extension of the franchise, the manner of counting votes and the reform of parliamentary procedures, supreme power will continue to remain alienated from the citizenry." [3]

On the basis of this analysis, the MLPC adopted the slogan For Us, Accountability Begins at Home. At its centre is the recognition that when society is being held back and every avenue to solving its problems is obstructed, the working class and people take up their own social responsibility to change the situation.

The MLPC wrote: "Today, as the anti-social offensive and the drive to embroil Canada in the aggressive wars led by U.S. imperialism are stepped up, the problem that the people cannot hold the government to account becomes increasingly evident and urgent. So long as Canadians do not participate in setting government agendas and are, on the contrary, at the mercy of whatever self-serving agendas the government, political parties and the media set, the problem of accountability will continue to plague the polity. Thus, the most important question which has emerged is who wields political power -- where the decision-making power is vested. While the question of power involves a myriad of elements, the cutting edge of the people's struggle for empowerment is to build the organizations through which they can put themselves into positions of influence by taking stands that defend the rights of the people and, on this basis, open society's door to progress and advance the cause of peace and human rights. This is the only way people can avert the dangers which those in power today are preparing. The program of the MLPC is to bring forward worker politicians and people's representatives to elect and be elected to form a Workers' Opposition in the Parliament. A Workers' Opposition can then go further and create an anti-war government which responds to the needs of the people at home and abroad."

Notes

1. "Illusion Making About the Gomery Inquiry," Marxist-Leninist Party of Canada, August 16, 2005.
2. Gomery Commission of Inquiry into the Sponsorship Program and Advertising Activities, Part II: Restoring Accountability: Recommendations, 2006.
3. Bains, Hardial, *A Power to Share: A Modern Definition of the Political Process and a Case for Its Democratic Renewal*, (1993), pp. 32-34.

The Harper Government's Conception of Accountability

The *Federal Accountability Act* was the centrepiece of the electoral campaign of the Conservative Party in the 2006 elections. It was presented as the means of ensuring "accountability and change" and overcoming the corruption of the previous Liberal governing party. It was presented as both a response to the Gomery Inquiry and a means of addressing aspects of the problem which were said to be beyond the purview of the Gomery Inquiry. The Act and the Action Plan were described as "anti-corruption legislation" and as "turning a new leaf" and "cleaning up government." [1]

In introducing the Bill, then Prime Minister Stephen Harper said: "With the *Federal Accountability Act*, we are creating a new culture of accountability that will change forever the way business is done in Ottawa." John Baird, President of the Treasury Board who tabled the legislation on behalf of the government, said: "Accountability is the foundation on which Canada's system of responsible government rests. It is key to assuring Parliament and Canadians that the Government of Canada is using public resources efficiently and effectively, and that it answers for its actions."

What then is the government's conception of accountability?



Following the 2006 election, the Marxist-Leninist Party of Canada (MLPC) pointed out:

"To find out what Harper means by change and accountability Canadians will have to study how he is intervening in the situation. He has already said his first act in government will be the *Federal Accountability Act*. From what we have seen thus far of Harper's views of accountability, it does not include taking up social responsibility. It is the same notion as that of Paul Martin. Harper will likely introduce new rules and regulations and what are called oversight procedures, but none of this will deal with why the corruption or conflicts of interest occur or even properly identify what constitutes corruption or conflicts of interest." [2]

Facts have borne out this prediction.

The conception of accountability in the *Federal Accountability Act* and Action Plan that goes along with it is that accountability is ensured by oversight -- by spelling out rules to catch wrongdoers. This conception is not fundamentally different to that of the two previous accountability initiatives, the first by the Liberal government under Jean Chrétien in May 2002, and the second by the Liberal government of Paul Martin. Neither initiative stopped the corruption or the conflicts of interest.

The May 2002 initiative included an 8 point action program with new guidelines, a new appointment procedure for the Ethics Counsellor, a *Lobbyist Registration Act*, a Code of Conduct for MPs and Senators, limits on political contributions and regulation of leadership contests. [3] Paul Martin's government had its own initiatives including the appointment of Justice Gomery's

Inquiry.

TML Daily pointed out: "In this regard, the conception of accountability by both the Liberals and Conservatives endorsed by all the parties which held seats in the House of Commons speaks of 'tougher laws' and strict guidelines. Its scope is purely administrative, not political and its effect is to criminalize individuals for 'wrongdoing.' The deliberation on the criteria used to establish wrongdoing is rushed and uncertain and seems to be quite arbitrarily determined. In the opinion of the MLPC, the entire process and decisions taken as a result of this process undermine the underlying premises of the system of responsible government. The resultant incoherence is causing greater and greater problems for the political parties themselves which are controlling this process, to say nothing about the damage to the polity. As a result, far from resolving the problems of corruption and conflicts of interest, the interparty and intraparty fights are increasing along with corruption and conflicts of interest. The result is the deepening crisis of the party system of government, and increasing loss of confidence of Canadians in political parties, the Parliament and the democracy and unfettered imposition of secret agendas which are increasingly subordinating the Canadian economy to the United States of North American Monopolies and the Canadian state to the U.S. state and embroiling Canada in the U.S. imperialist striving for world domination."

Notes

1. The Harper government introduced the *Federal Accountability Act* to Parliament on April 11, 2006 right after the federal election which brought the Harper minority government to power. Even though the *Federal Accountability Act* was a massive bill, some 250 pages long, Canadians knew practically nothing about it. It changed more than 60 pieces of legislation, and included within it several new whole statutes, such as the *Conflict of Interest Act*. It expanded the scope of the *Access to Information Act* to cover seventeen new organizations, seven agencies and four foundations. It tabled the amendments proposed by the Information Commissioner while also tabling a discussion paper on information access. It was announced together with an Action Plan with measures the government could introduce immediately without parliamentary approval. As such, the Action Plan was implemented immediately.
2. "Bill C-2, the Federal Accountability Act: Brief of the Marxist-Leninist Party of Canada to the Senate Standing Committee on Legal and Constitutional Affairs, September 7, 2006," *TML Daily*, September 8, 2006, No. 128.
3. "39th General Election: Significance of the Election Results," *TML Daily*, January 30, 2006, No. 4.



For Your Information

Jody Wilson-Raybould's Testimony at Justice Committee -- Opening Statement

Gilakas'la. Thank you Mr. Chair and thank you to the members of the Justice Committee for providing me with the opportunity for extended testimony today. I very much appreciate it. And starting off, I would like to acknowledge the territory, the ancestral lands of the Algonquin people.

For a period of approximately four months between September and December 2018, I experienced a consistent and sustained effort by many people within the government to seek to politically interfere in the exercise of prosecutorial discretion in my role as the Attorney General of Canada in an inappropriate effort to secure a Deferred Prosecution Agreement [DPA] with SNC-Lavalin. These events involved 11 people (excluding myself and my political staff) from the Prime Minister's Office, the Privy Council Office, and the Office of the Minister of Finance. This included in-person conversations, telephone calls, emails, and text messages. There were approximately 10 phone calls and 10 meetings specifically about SNC and I or a part of my staff were a part of these meetings.



Within these conversations, there were express statements regarding the necessity of interference in the SNC-Lavalin matter, the potential for consequences, and veiled threats if a DPA was not made available to SNC. These conversations culminated on December 19, 2018 with a conversation I had with the Clerk of the Privy Council -- a conversation that I will provide some significant detail on.

A few weeks later, on January 7, 2019, I was informed by the Prime Minister that I was being shuffled out of the role of Minister of Justice and Attorney General of Canada.

For most of these conversations, I made contemporaneous notes, detailed notes, in addition to my clear memory, which I am relying on today among other documentation.

My goal in my testimony is to outline the details of these communications for the Committee and indeed all Canadians. However, before doing that, let me make a couple of comments.

First, I want to thank Canadians for their patience since the February 7 story which broke in the *Globe and Mail*. Thank you as well especially to those who have reached out to me from across the country. I appreciate the messages and I have read them all.

Secondly, on the role of the Attorney General. The Attorney General exercises prosecutorial discretion as provided for under the *Director of Public Prosecutions Act*. Generally, this authority is exercised by the Director of Public Prosecutions, but the Attorney General has authority to issue directives to the DPP on specific prosecutions or to take over prosecutions.

It is well-established that the Attorney General exercises prosecutorial discretion. She or he does so individually and independently. These are not Cabinet decisions.

I will say that it is appropriate for Cabinet colleagues to draw to the Attorney General's attention what they see as important policy considerations that are relevant to decisions about how a prosecution will proceed. What is not appropriate is pressing the Attorney General on matters that she or he cannot take into account, such as partisan political considerations; continuing to urge the Attorney General to change her or his mind for months after the decision has been made; or suggesting that a collision with the Prime Minister on these matters should be avoided.

With that said, the remainder of my testimony will be a detailed and factual delineation of the

approximately 10 phone calls, 10 in-person meetings, and emails and text messages that were part of an effort to politically interfere regarding the SNC matter for the purposes of securing a Deferred Prosecution.

The story begins on September 4, 2018. My COS [Chief of Staff] and I were overseas when I was sent a 'Memorandum for the Attorney General (pursuant to section 13 of the *Director of Public Prosecutions Act*) which was entitled 'Whether to issue an invitation to negotiate a remediation agreement to SNC Lavalin' which was prepared by the Director of Public Prosecutions, Kathleen Roussel. The only parts of this note that I will disclose are as follows: "the DPP is of the view that an invitation to negotiate will not be made in this case and that no announcement will be made by the PPSC [Public Prosecution Service of Canada]." As with all section 13 notices -- the Director provides the information so that the Attorney General may take such course of action as they deem appropriate.

In other words, the Director had made her decision to not negotiate a remediation agreement with SNC-Lavalin.

I subsequently spoke to my Minister's office staff about this decision and I did the standard practice of undertaking further internal work and due diligence in relation to this note, a practice that I have had for many of the section 13 notices that I received when I was the Attorney General. In other words, I immediately put in motion, with my Department and Minister's office, a careful consideration and study of the matter.

Two days later, on September 6, one of the first communications about the DPA was received from outside of my department. Ben Chin, Minister Morneau's Chief of Staff, e-mailed my Chief of Staff and they arranged to talk. He wanted to talk about SNC and what we could do, if anything, to address this. He said to her, my Chief, that if they don't get a DPA, they will leave Montreal, and it's the Quebec election right now, so we can't have that happen. He said that they have a big meeting coming up on Tuesday and that this bad news may go public.

This same day my Chief of Staff exchanged some emails with my MO Staff [Francois Giroux and Emma Carver] about this, who advised her that the Deputy Attorney General -- Nathalie Drouin -- was working on something (they had spoken to her about the issue), and that my staff [Emma Carver and Gregoire Webber] were drafting a memo as well on the role of the AG *vis à vis* the PPSC.

It was on or about this day that I requested a one-on-one meeting with the Prime Minister on another matter of urgency and as soon as possible after I got back into the country. This request would ultimately become the meeting on September 17 between myself and the Prime Minister that has widely been reported in the media.

On September 7, my Chief of Staff spoke by phone with my then Deputy Minister about the call she had received from Ben Chin and the Deputy stated that the Department was working on this. The Deputy gave my Chief a quick rundown of what she thought some options might be (e.g., informally call Kathleen Roussel, set up an external review of their decision, etc.). On the same day I received a note from my staff -- on the role of the AG -- a note that was also shared with Elder Marques and Amy Archer at the PMO.

Same day, staff in my office met with the Deputy Minister. Some excerpts of the section 13 note were read to the Deputy Minister, but the Deputy Minister did not want to be provided with a copy of the section 13 note.

September 8 -- my Deputy shared a draft note on the role of the AG with my Chief of Staff who shared it with me, and over the next day clarity was sought by my staff with the Deputy on aspects of an option that was in her note.

A follow-up conversation between Ben Chin and a member of my staff (FG) occurred on September 11, Mr. Chin said that SNC has been informed by the PPSC that it cannot enter into a DPA -- and Ben again detailed the reasons why they were told they were not getting a DPA. Mr. Chin also noted that SNC's legal counsel was Frank Iacobucci, and further detailed what the terms were that SNC was prepared to agree to -- stating that they viewed this as a negotiation.

To be clear, up to this point I had not been directly contacted by the Prime Minister, officials in the Prime Minister's Office or the Privy Council Office about this matter. With the exception of Mr. Chin's discussions, the focus of communications had been internal to the Department of Justice.

This changes on September 16. My Chief of Staff had a phone call with Mathieu Bouchard and Elder Marques from the Prime Minister's Office. They wanted to discuss SNC. They told her that SNC have made further submissions to the Crown, and that "there is some softening, but not much." They said that they understood that the individual Crown prosecutor wants to negotiate an agreement but the Director does not. They said that they understand that there are limits on what can be done, and that they can't direct, but that they hear that our Deputy (of Justice) thinks we can get the PPSC to say "we think we should get some outside advice on this." They said that they think we should be able to find "a more reasonable resolution" here. They told her that SNC's next board meeting is on Thursday, which was September 20. They also mentioned the Quebec election context. They asked my Chief if someone had suggested the outside advice idea to the PPSC, and asked whether or not we were open to this suggestion. They wanted to know if my Deputy could do it.

In response, my Chief of Staff stressed to them prosecutorial independence and potential concerns about interference in the independence of the prosecutorial functions. Mr. Bouchard and Mr. Marques kept telling her that they didn't want to cross any lines -- but they asked my Chief of Staff to follow up with me directly on this matter.

To be clear, I was fully aware of the conversations between September 4 and 16 that I have outlined. I had been regularly briefed by my staff from the moment this matter first arose and had also reviewed all materials that had been produced.

Further, my view had also formed at this point through the work of my Department, my Minister's office and work I had conducted on my own, that it was inappropriate for me to intervene in the decision of the Director of Public Prosecutions in this case and pursue a Deferred Prosecution Agreement.

In the course of reaching this view, I discussed the matter on a number of occasions with my then Deputy so that she was aware of my view, raised concerns on a number of occasions with my Deputy Minister about the appropriateness of communications we were receiving from outside the Department, and also raised concerns about some of the options she had been suggesting.

On September 17 the Deputy Minister said that Finance had told her that they want to make sure that Kathleen "understands the impact" if we do nothing in this case. Given the many potential concerns raised by this conversation, I discussed this later with my Deputy.

This same day, (September 17), I had my one-on-one with the Prime Minister that I requested a couple weeks ago. When I walked in, the Clerk of the Privy Council was in attendance as well.

While the meeting was not about the issue of SNC and DPA's, the Prime Minister raised the issue immediately.

The Prime Minister asked me to help out, to find a solution here for SNC -- citing that if there was no DPA, there would be many jobs lost and that SNC will move from Montreal.

In response, I explained to him the law and what I have the ability to do and not do under the *Director of Public Prosecutions Act* around issuing directives or assuming conduct of prosecutions. I told him that I had done my due diligence and made up my mind on SNC and that I was not going to interfere with the decision of the Director.

In response, the Prime Minister reiterated his concerns. I then explained how this came about and that I had received the section 13 note from the DPP earlier in September and that I had considered the matter very closely. I further stated that I was very clear on my role as the AG -- and I am not prepared to issue a directive in this case -- that it was not appropriate.

The Prime Minister again cited potential loss of jobs and SNC moving. Then to my surprise -- the Clerk started to make the case for the need to have a DPA -- he said, "there is a board meeting on Thursday, September 20, with stock holders" ... "they will likely be moving to London if this happens ... and there is an election in Quebec soon"...

At that point, the Prime Minister jumped in, stressing that there is an election in Quebec and that "I am an MP in Quebec -- the member for Papineau."

I was quite taken aback. My response -- and I remember this vividly -- was to ask the PM a direct question while looking him in the eye -- I asked: "Are you politically interfering with my role / my decision as the AG? I would strongly advise against it."

The Prime Minister said "No, No, No -- we just need to find a solution." The Clerk then said that he spoke to my Deputy and she said that I could speak to the Director.

I responded by saying no I would not -- that would be inappropriate. I further explained to the Clerk and the Prime Minister that I had a conversation with my Deputy about options and what my position was on the matter.

As a result, I agreed to and undertook to the Prime Minister that I would have a conversation with my Deputy and the Clerk -- but that these conversations would not change my mind. I also said that my staff and my officials are not authorized to speak to the PPSC.

And then we finally discussed the issue that I had asked for the meeting in the first place.

I left the meeting and immediately debriefed with my staff as to what was said about SNC and DPA's.

On September 19, I met with the Clerk as I had undertaken to the Prime Minister. The meeting was one-on-one, in my office.

The Clerk brought up job losses and that this is not about the Quebec election or the Prime

Minister being a Montreal MP. He said that he has not seen the section 13 note. The Clerk said that he understands that SNC is going back and forth with the DPP, and that they want more information. He said that "Iacobucci is not a shrinking violet." He referenced the September 20 date [presumably a reference to the shareholder meeting], and that they don't have anything from the DPP. He said that the Prime Minister is very concerned about the confines of my role as Attorney General and the Director of Public Prosecutions. He reported that the Prime Minister is very aware of my role as the Attorney General of Canada.

I told the Clerk again that I had instructed that my Deputy is not to get in touch with the Director and that, given my review of the matter, I would not speak to her directly regarding a DPA. I offered to the Clerk that, if SNC were to send a letter to me expressing their concerns -- their public interest argument -- it would be permissible and I would appropriately forward it directly to the Director of Public Prosecutions.

Later that day, my Chief of Staff had a phone call with Elder Marques and Mathieu Bouchard from the Prime Minister's Office. They wanted an update on what was going on regarding the DPA's since "we don't have a ton of time." She relayed my summary of my meeting with the Clerk and the Prime Minister.

Mathieu and Elder raised the idea of an "informal reach out" to the DPP. My Chief of Staff said that she knew I was not comfortable with that, as it looked like and probably did constitute political interference. They asked whether that was true if it wasn't the Attorney General herself but if it was her staff or the Deputy Minister. My Chief of Staff said "yes" it would and offered a call directly with me. They said that "we will regroup and get back to you on that."

Still on September 19, I spoke to Minister Morneau on this matter when we were in the House. He again stressed the need to save jobs, and I told him that engagements from his office to mine on SNC had to stop -- that they were inappropriate.

They did not stop. On September 20, my Chief of Staff had phone calls with Mr. Chin and Justin To, both from the Minister of Finance's office, about DPAs and SNC.

At this point, after September 20, there was an apparent pause in communicating with myself or my Chief of Staff about the SNC matter. We did not hear from anyone again until October 18, when Mathieu Bouchard called my Chief of Staff and asked that we -- I -- look at the option of my seeking an external legal opinion on the DPP's decision not to extend an invitation to negotiate a DPA.

This would become a recurring theme for sometime in messages from the PMO -- that an external review should be done of the DPP's decision.

The next day as well, SNC filed a Federal Court application seeking to quash the DPP's decision to not enter into a remediation agreement with them.

In my view, this necessarily put to rest any notion that I might speak to or intervene with the DPP or that an external review could take place. The matter was now before the courts, and a judge was being asked to look at the DPP's discretion.

However, on October 26, 2018 -- when my Chief of Staff spoke to Mathieu Bouchard and communicated to him now that, given that SNC had now filed in Federal Court seeking to review the DPP's decision, surely we had moved past this idea of the Attorney General intervening or

getting an opinion on that same question -- Mathieu replied that he was still interested in an external legal opinion idea. Could she not get an external legal opinion on whether the DPP had exercised their discretion properly, and then on the application itself, the Attorney General could intervene and seek a stay of proceedings, given that she was awaiting a legal opinion.

My Chief of Staff said that this would obviously be perceived as interference and that her boss questioning the DPP's decision. Mathieu said that if -- six months from the election -- SNC announces they are moving their headquarters out of Canada, that is bad.

He said, "we can have the best policy in the world but we need to get re-elected." He said that everybody knows that this is the Attorney General's decision, but that he wants to make sure that all options are being canvassed. Mathieu said that if, at the end of the day, the Attorney General is not comfortable, that is fine. He just "doesn't want any doors to be closed." Jessica, my Chief of Staff, said that I was always happy to speak to him directly should he wish.

In mid-November, the PMO requested that I meet with Mathieu Bouchard and Elder Marques to discuss the matter -- which I did on November 22. This meeting was quite long -- I would say about an hour and a half. I was irritated by having to have this meeting as I had already told PM etc. that a DPA on SNC was not going to happen, that I was not going to issue a directive.

Mathieu at this meeting did most of the talking -- he was trying to tell me that there were options and that I needed to find a solution.

I took them through the *DPP Act*, section 15, section 10, and talked about prosecutorial independence as a constitutional principle, and that they were interfering. I talked about the section 13 note -- which they said they had never received -- but I reminded them that we sent it to them in September.

Mathieu and Elder continued to plead their case, talking about if I am not sure in my decision, that we could hire an eminent person to advise me. They were "kicking the tires." I said No. My mind had been made up and they needed to stop. This was enough.

I will briefly pause at this moment to comment at this point on my own state of mind. In my role as Attorney General, I had received the decision of the DPP in September, had reviewed the matter, made a decision on what was appropriate given a DPA, and communicated that to the Prime Minister. I had also taken additional steps that the Prime Minister asked me to -- such as meeting with Clerk.

In my view, the communications and efforts to change my mind on this matter should have stopped. Various officials also urged me to take partisan political considerations into account -- which it was clearly improper for me to do. We either have a system that is based on the rule of law, the independence of the prosecutorial functions, and respect for those charged to use their discretion and powers in particular ways -- or we do not. While in our system of government, policy-oriented discussion amongst people at earlier points in this conversation may be appropriate, the consistent and enduring efforts, even in the face of judicial proceedings on the same matter -- and in the face of a clear decision of the Director of Public Prosecutions and the Attorney General -- to continue and even intensify such efforts raises serious red flags in my view.

Yet, this is what continued to happen.

On December 5, 2018, I met with Gerry Butts. We had both sought out the meeting.

I wanted to speak about a number of things -- including bringing up SNC and the barrage of people hounding me and my staff.

Towards the end of the meeting, which was in the Chateau Laurier, I raised how I needed everyone to stop talking to me about SNC as I had made up my mind and the engagements were inappropriate. Gerry then took over the conversation and said we need a solution on the SNC stuff -- he said I needed to find a solution. I said no and referenced the preliminary inquiry and the judicial review. I said further that I gave the Clerk the only appropriate solution that could have happened and that was the letter idea that was not taken up.

Gerry said that the statute was a statute passed by Harper and that he does not like the law [*Director of Public Prosecutions Act*]. I said something like "that is the law we have"...

On December 7, I received a letter from the Prime Minister, dated December 6, attaching a letter from the CEO of SNC-Lavalin dated October 15. I responded to the Prime Minister's letter on December 6, noting that the matter is before the courts, so I cannot comment on it, and that the decision re a DPA was one for the DPP, which is independent of my office.

This brings us to the final events in the chronology, and ones which signal, in my experience, the final escalation in efforts by the Prime Minister's Office to interfere in this matter.

On December 18, 2018, my Chief of Staff was urgently summoned to meet with Gerry Butts and Katie Telford to discuss SNC. They wanted to know where I am in terms of finding a solution. They told her that they felt like the issue was getting worse and that I was not doing anything. They referenced a possible call with the Prime Minister and the Clerk the next day.

I will now read to you a transcript of the most relevant sections of the text conversation between my Chief of Staff and I almost immediately after that meeting:

Jessica: Basically, they want a solution. Nothing new. They want external counsel retained to give you an opinion on whether you can review the DPP's decision here and whether you should in this case. ... I told them that would be interference.

Gerry said "Jess, there is no solution here that doesn't involve some interference." At least they are finally being honest about what they are asking you to do! Don't care about the PPSC's independence. Katie was like "we don't want to debate legalities anymore." ... They keep being like "we aren't lawyers, but there has to be some solution here."

MOJAG: So where were things left?

JP: So unclear. I said I would of course let you know about the conversation and they said they were going to "kick the tires" with a few more people on this tonight. The Clerk was waiting outside when I left. But they said they want to set up a call between you and the Prime Minister and the Clerk tomorrow. I said that of course you would be happy to speak to your boss! They seem quite keen on the idea of you retaining an ex Supreme Court of Canada judge to get advice on this. Katie Telford thinks it gives us cover in the business community and the legal community, and that it would allow the Prime Minister to say we are doing something. She was like "if Jody is nervous, we would of course line up all kinds of people to write OpEds saying that what she is doing is proper."

On December 19, 2018, I was asked to have a call with the Clerk. It was a fairly lengthy call and I took the call from home and I was on my own by myself. Given what had occurred the previous

day with my Chief of Staff, I was determined to end all interference and conversations about this matter once and for all. Here is part of what the Clerk and I discussed.

The Clerk said he was calling about Deferred Prosecution Agreement / SNC -- he said he wanted to pass on where the Prime Minister is at ... he spoke about the company's board and the possibility of them selling out to somebody else, moving their headquarters, and job losses.

He said that the Prime Minister wants to be able to say that he has tried everything he can within the legitimate toolbox. The Clerk said that the PM is quite determined, quite firm, but he wants to know why the DPA route which Parliament provided for isn't being used. He said "I think he is gonna find a way to get it done one way or another. So, he is in that kind of mood and I wanted you to be aware of it."

The Clerk said he didn't know if the Prime Minister was planning on calling me directly or he is thinking about getting somebody else to give him some advice. You know he does not want to do anything outside the box of what is legal or proper. He said that the Prime Minister wants to understand more, to give him advice on this or to give you advice on this if you want to feel more comfortable you are not doing anything inappropriate or outside the frame.

I told the Clerk that I was 100 per cent confident that I was doing nothing inappropriate. I, again, reiterated my confidence in where I am at and my views on SNC and the DPA have not changed, I reiterate this is a constitutional principle of prosecutorial independence.

I warned the Clerk in this call that we were treading on dangerous ground here -- and I issued a stern warning because, as the Attorney General, I cannot act in a manner and the prosecution cannot act in a manner that is not objective, that isn't independent, I cannot act in a partisan way and I cannot be politically motivated. This all screams of that. The Clerk wondered whether anyone could speak to the Director about the context around this or get her to explain her reasonings.

The Clerk told me that he was going to have to report back to the Prime Minister before he leaves. He said again that the Prime Minister was in a pretty firm frame of mind about this and that he was a bit worried.

I asked what he was worried about.

The Clerk then made a comment about how it is not good for the Prime Minister and his Attorney General to be at "loggerheads."

I told the Clerk that I was giving him my best advice and if he does not accept that advice then it is the Prime Minister's prerogative to do what he wants, but I am trying to protect the Prime Minister from political interference or perceived political interference or otherwise.

The Clerk acknowledged that, but said that the Prime Minister does not have the power to do what he wants. All the tools are in my hands, he said.

I said that I was having thoughts of the Saturday Night Massacre -- but that I was confident that I had given the Prime Minister my best advice to protect him and to protect the constitutional principle of prosecutorial independence.

The Clerk said that he was worried about a collision because the Prime Minister is pretty firm about this. He told me that he had seen the Prime Minister a few hours ago and that this is really

important to him.

That is essentially where the conversation ended and I did not hear from the Prime Minister the next day.

On January 7, I received a call from the Prime Minister and was informed I was being shuffled out of my role as Minister of Justice and Attorney General of Canada. I will not go into details of this call, or subsequent communications about the shuffle, but I will say that I stated I believed the reason was because of the SNC matter. They denied this to be the case.

On January 11, 2019, the Friday before the shuffle, my Deputy Minister is called by the Clerk and told that the shuffle is happening, and that she will be getting a new Minister. As part of this conversation, the Clerk tells the Deputy that one of the first conversations that the new Minister will be expected to have with the Prime Minister will be on SNC-Lavalin. In other words, that the new Minister will need to be prepared to speak to the Prime Minister on this file. The Deputy recounts this to my Chief of Staff who tells me about the comment.

My narrative stops here. I must reiterate to the Committee my concern outlined in my letter to the Chair yesterday. That is, Order in Council #2019-0105 addresses only my time as the Attorney General of Canada and therefore does nothing to release me from my restrictions that apply to communications while I proudly served as the Minister of Veterans Affairs and in relation to my resignation from that post, or my presentation to Cabinet after I resigned. This time period includes communications on topics that some members of the Committee have explored with other witnesses and about which there have been public statements by others. The Order in Council leaves in place the various constraints, in particular Cabinet confidence, that there are on my ability to speak freely about matters that occurred after I left the post of Attorney General.

Even with those constraints, I hope that through my narrative today, the Committee, and everyone across the country who's listening, has a clear idea of what I experienced and what I know of who did what, and what was communicated.

I hope, and expect, the facts speak for themselves.

I imagine Canadians now fully understand that in my view these events constituted pressure to intervene in a matter, and that this pressure -- or political interference -- to intervene, was not appropriate. However, Canadians can judge this for themselves as we all now have the same frame of information.

Lastly, as I have said previously, "it has always been my view that the Attorney General of Canada must be non-partisan, more transparent in the principles that are the basis of decisions, and, in this respect, always willing to speak truth to power." In saying this I was reflecting what I understood to be the vital importance of the rule of law and prosecutorial independence in our democracy. My understanding of this has been shaped by some lived experiences. I am, of course, a lawyer. I was a prosecutor in the downtown eastside of Vancouver. So I come to this view as a professional trained and committed to certain values as key to our system of order.

But my understanding of the rule of law has also been shaped by my experiences as an Indigenous person and as an Indigenous leader. The history of Crown-Indigenous relations in this country includes a history of the rule of law not being respected. Indeed, one of the main reasons for the urgent need for justice and reconciliation today is that, in the history of our country, we have not always upheld foundational values such as the rule of law in our relations to Indigenous peoples. And I have seen the negative impacts for freedom, equality, and a just society this can

have firsthand.

So when I pledged to serve Canadians as your Minister of Justice and Attorney General, I came to it with a deeply ingrained commitment to the rule of law and the importance of acting independently of partisan, political and narrow interests in all matters. When we do not do that, I firmly believe, and know, we do worse as a society.

I will conclude by saying this: I was taught to always be careful of what you say -- because you cannot take it back. I was taught to always hold true to your core values and principles and to act with integrity. These are the teachings of my parents, grandparents and community. I come from a long line of matriarchs and I am a truth teller in accordance with the laws and traditions of our Big House. This is who I am and this is who I always will be.

Gilakas'la / Thank you.

Orders In Council

- February 25, 2019 -

PC Number: 2019-0105

Her Excellency the Governor General in Council, on the recommendation of the Prime Minister, for the purposes of the hearings before the Standing Committee on Justice and Human Rights and the examination by the Conflict of Interest and Ethics Commissioner:

(a) authorizes the Honourable Jody Wilson-Raybould, the former Attorney General, and any persons who directly participated in discussions with her relating to the exercise of her authority under the *Director of Public Prosecutions Act* respecting the prosecution of SNC-Lavalin, to disclose to the Standing Committee on Justice and Human Rights and to the Conflict of Interest and Ethics Commissioner any confidences of the Queen's Privy Council for Canada contained in any information or communications that were directly discussed with her respecting the exercise of that authority while she held that office; and

(b) for the purposes of disclosure to the Standing Committee on Justice and Human Rights and to the Conflict of Interest and Ethics Commissioner by the former Attorney General, and any persons who directly participated in discussions with her, waives, to the extent they apply, solicitor-client privilege and any other relevant duty of confidentiality to the Government of Canada in regards to any information or communications in relation to the exercise of the authority of the Attorney General under the *Director of Public Prosecutions Act* that were directly discussed with the former Attorney General respecting the prosecution of SNC-Lavalin while she held that office.

However, in order to uphold the integrity of any criminal or civil proceedings, this authorization and waiver does not extend to any information or communications between the former Attorney General and the Director of Public Prosecutions concerning SNC-Lavalin.

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