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• (1105)

[English]

The Chair (Ms. Lena Metlege Diab (Halifax West, Lib.)): I call the meeting to order.

[Translation]

Welcome, dear colleagues.

[English]

This is meeting number 91 of the House of Commons Standing Committee on Justice and Human Rights.

Happy new year, everyone. I have no doubt that we will continue in 2024 with the same collegiality and respectful atmosphere that we are used to in this committee. Thank you for that.

We're here today to discuss the request for an emergency meeting pursuant to Standing Order 106(4).

The meeting is taking place in a hybrid format, pursuant to the Standing Orders. Members are attending in person in the room and remotely using the Zoom application. We have two members on Zoom. I believe, since there are no witnesses outside of the members, that you're all very well versed in the rules in terms of how you are supposed to use the Zoom application.

[Translation]

I wish to inform you that all the sound tests were completed successfully.

[English]

There are no issues with the sound for those attending on Zoom.

Colleagues, we have circulated the Standing Order 106(4) meeting request received by the clerk on Friday afternoon. This request pertains to judicial vacancies, and we are here to discuss this subject.

I will open up the floor with Mr. Moore.

Hon. Rob Moore (Fundy Royal, CPC): Thank you, Madam Chair.

[Translation]

Mr. Rhéal Éloi Fortin (Rivière-du-Nord, BQ): Madam Chair, I'm raising a point of order before we start.

The Chair: You have the floor, Mr. Fortin.

Mr. Rhéal Éloi Fortin: First of all, thank you. Next, I also want to extend my best wishes for 2024 to all committee members and staff.

Since two members of the committee are joining us using Zoom, I want to know if sound tests were done and if they were successful.

I'm going back to my good old habits; I apologize, but it can't be helped.

The Chair: Yes, Mr. Fortin, sound tests were done, as I already said.

Mr. Rhéal Éloi Fortin: I am sorry; I must have been distracted.

The Chair: Thank you very much.

We will now get started.

Mr. Moore, you have the floor.

[English]

Hon. Rob Moore: Thank you, Madam Chair.

The reason why we have asked for this meeting is that, as all of us are aware, former minister Lametti made some remarks recently about the judicial appointments process. All of us around this table, over a number of studies and bills—I'm thinking about even the study we did on the federal government's obligation to victims of crime—have heard commentary about the need to fill judicial vacancies.

The former minister made comments about judicial vacancies, the appointments process and what sounded like his frustration in filling those vacancies. In an effort to get some answers on that, those who signed had asked for this Standing Order 106(4) meeting, a special meeting, so the committee members could hear from witnesses on this issue and act accordingly.

I want to move a motion, Madam Chair, related to this proposed study. I think it's being circulated or has been circulated. It says:

Given that,

The former Minister of Justice, Hon. David Lametti, blamed the slowdown of judicial appointments solely on the Prime Minister's Office and last May, Chief Justice of the Supreme Court of Canada, the Right Hon. Richard Wagner, wrote the Prime Minister expressing "great concern" about the shortage of judges in the country, the committee immediately launch a four meeting study in order to assess the impact of the insufficient number of judges Canada has, and calls the following witnesses: Minister of Justice, Hon. Arif Virani; former Minister of Justice, Hon. David Lametti; Commissioner for Federal Judicial Affairs; and Chief Justice of Supreme Court of Canada, Right Hon. Richard Wagner.

That would of course be a starting point. Other parties would have their ideas for witnesses, of course, but I do move that motion, Madam Chair, and I appreciate the committee's consideration of this important topic.

• (1110)

The Chair: Mr. Moore, I've been informed by the clerk that the motion is available only in English. What happened to the French version?

Hon. Rob Moore: Madam Chair, I understand that the French version is on its way, so it should be with the clerk shortly.

[*Translation*]

The Chair: Mr. Fortin, you have the floor.

Mr. Rhéal Éloi Fortin: Madam Chair, with your permission, I move to suspend the meeting for a few minutes until the French version is tabled. From what I understand, it will be done shortly.

The Chair: Very well.

• (1120)

We're resuming the meeting.

I think everyone now has the French version of the motion.

[*English*]

I think we should all now have both English and French versions.

We will continue from where we started off. I believe Mr. Moore had a motion on the floor.

Hon. Rob Moore: Yes, Madam Chair—

Mr. Anthony Housefather (Mount Royal, Lib.): I have a point of order, Madam Chair.

The Chair: Yes, Mr. Housefather. I will look at the camera from now on. I'm glad you mentioned it. Thank you.

Mr. Anthony Housefather: I was just wondering, Madam Chair, if you would kindly circulate to us by email the motion in English and French.

The Chair: Yes, thank you.

Give me one moment. Let's make sure the colleagues appearing virtually also have it.

[*Translation*]

The motion was just sent out. You should have it now, Mr. Housefather.

Thank you very much.

[*English*]

Mr. Moore, are you continuing?

Hon. Rob Moore: Sure. Thank you, Madam Chair.

Also, thank you, everyone, for your consideration of the motion.

I think it is important that this committee study this issue. It's a big issue, and it is fully within our wheelhouse. I'm not proposing that we spend an inordinate amount of time on it, but we should take a look at the impact of these vacancies on our justice system. Also, I don't see this in any way necessitating a delay in our consid-

eration of Bill C-40. We have Thursday's meeting. We could possibly deal with Bill C-40 at that point. However, I do think it's something we should take a look at, for the reasons that are in the motion itself.

Thank you for your consideration.

• (1125)

The Chair: Go ahead, Mr. Maloney.

Mr. James Maloney (Etobicoke—Lakeshore, Lib.): Thank you, Madam Chair.

First of all, welcome back, everybody. Happy new year. It's good to see everybody.

I hope this committee can get off on the right foot and get moving forward on the important issues at hand. That is not how I would characterize this motion, if I were asked—to be frank.

First, I would start by saying thank you to former member of Parliament and justice minister David Lametti. As we all know, he has announced that he has decided to retire and move on to private practice.

In my view—and I know this view is shared, certainly by the people on this side of the table and, I believe, around the House—he was a remarkable member of Parliament. He served as the Minister of Justice with integrity and honour. I was very proud to work with him and have nothing but total admiration for the work he's done. I just wanted to say thank you to him.

One of the many problems with this motion is that every time you have a discussion like this, it somehow impugns the integrity of the justice system. I'm looking across the table at five lawyers and one person who had the wisdom not to become a lawyer. It sends the wrong message to the general public, because I think everybody who has practised will agree that Canada has one of the greatest judicial systems. It's the envy of the world. I'm very proud to be a part of it.

Justice Lametti has, as I said, a great track record as justice minister, including judicial appointments. I'm very proud when I look at the people who were appointed under Justice Lametti's watch and at the people who have been appointed under our current Minister of Justice's watch. It's a source of pride, frankly, because they are quality people.

The process by which they're appointed is also something I'm very proud of, because if you look back over the past seven years and you look at the number of women, for example, who have been appointed to the bench since 2016, it's over 50%. This is the first time in Canadian history we've ever seen that. The bench now is more reflective of society as a whole—it's something we should all be very proud of—all while maintaining the integrity and quality of our system.

To proceed with this motion would be unfortunate, because it can only lead to a discussion that will become political and, as I said at the outset, send the wrong message to the general public about why we're having this discussion. This is because it raises questions that aren't real and are about how we may have a problem when we don't.

Just to address Mr. Moore's other point, about legislation, we've been patiently, as a committee, trying to deal with Bill C-40. We left here in December, after not several days but several weeks of filibustering delaying the passage of that bill. We are so close to having it done. There are families and people across this country who are watching us and who have respect for the integrity of our system. If we waste time on this motion and delay dealing with Bill C-40 any further, it will be a complete shame and a display of a total lack of respect for all those who are waiting patiently.

Therefore, I will be voting against this motion, in the hope that we can move on very quickly and get back to Bill C-40.

I should point out, too, that in the last 12 months, there have been 100 judicial appointments filled. In keeping with that accelerated pace, this meeting started at 11 o'clock and eight appointments have been made since we sat down here this morning.

Thank you, Madam Chair.

The Chair: I will now go to Mr. Brock, followed by Mr. Van Popta, Mr. Caputo and Monsieur Fortin.

Mr. Larry Brock (Brantford—Brant, CPC): Thank you, Madam Chair.

With all due respect to my Liberal colleagues and, in particular, my friend Mr. Maloney, I don't share his analysis of the importance of this study. This is not a political opportunity to gain points. This is an opportunity to improve access to justice.

Every Canadian has an absolute right to receive timely justice, whether that be in the criminal realm or the civil realm. We're all lawyers. I can anecdotally share with you that this issue of the lack of urgency in judicial appointments is a chronic, serious issue that is undermining the functioning of our judicial system, so much so that the chief justice of the Supreme Court of Canada had to cry out and make public his real, deep concerns about the pace at which the federal government is appointing justices.

Where I will agree with Mr. Maloney is that since the appointment of our new justice minister and Attorney General, there has been a sense of urgency in his office. He has appointed far more in the time he has held that office than were appointed in the four years previously occupied by David Lametti. David Lametti, in a CBC News report, essentially said, "It's not my problem. I wanted to appoint. I was hamstrung by the PMO."

The process is very clear. Under the current judicial appointment process, the justice minister is responsible for recommending a candidate for approval. There are three aspects to that analysis: "highly recommend", "recommend" or "do not recommend". The justice minister recommends a particular candidate for approval following a due diligence process overseen in part by the Prime Minister's Office.

He was accurate to say it wasn't strictly his decision and his lack of a sense of urgency. He was stymied, essentially, by the lack of urgency in the Prime Minister's Office. That should send a very serious, alarming signal to all Canadians and to all members of the judicial process.

Mr. Maloney says that in the last week alone, they've appointed *x* number of justices, and today, eight justices. That's great. I haven't seen the news. I haven't seen the reports, so I'm not going to doubt the authenticity of what my friend had to say, but I can tell you that six months ago, when Justice Wagner cried out for assistance and had a personal one-on-one telephone call with the Prime Minister, there were 79 vacancies.

As of January 1, 2024—and anyone can do a Google search through the Office of the Commissioner for Federal Judicial Affairs Canada—across this country, there were 78 vacancies. But for the comments of Mr. Maloney, we've improved on the stats by one justice.

Inevitably, the justices who are considered for federal judicial appointments tend to be senior members of the bar. There are mandatory requirements for retirement. There are options for federal justices to change their status from fully engaged or fully active justices on the bench to supernumerary status, which means they only sit for a very limited amount of time per year.

• (1130)

Every year, cyclically, we have a number of justices moving into new categories or flat out retiring. The numbers are always increasing. The fact that we have eight new appointments today is great, but come February 1, we could be down by 12. The problem does not go away. This problem of not having a full complement of federal court justices has existed for decades. Ever since I became a lawyer, there have never been enough justices. When you don't have enough justices, your access to justice is denied—so much so that the Senate, in August 2016, produced a study called "Delaying Justice is Denying Justice". One of the recommendations was to appoint more judges in a timely manner. Here we are, eight years later, still arguing about how the appointment process is not efficient and how it often takes eight months to a year, if not longer, to appoint justices on the bench. The impacts are profound.

I've quoted for you what Justice Wagner... Actually, I haven't quoted what Justice Wagner had to say, but I might take this opportunity to do that right now, because I think his words are very telling. As Canada's chief justice sounded the alarm over the serious consequences of judicial vacancies, in a wrap-up, he was "highly critical of the current pace of judicial appointments, warning that languishing vacancies on courts across Canada are exacerbating 'an already alarming situation.'" He said, "These empty positions have a significant impact on the administration of justice, the functioning of our courts, and access to justice for the public.... It has major effects in every province of this country."

According to Justice Wagner, “There are [suitable] candidates available in every province [and territory], so there’s no reason why those [vacancies] cannot be filled.” As noted by Justice Wagner, some courts have been operating for years with vacancy rates of 10% to 15%. “He said it’s not unusual to see some positions remain vacant for months, or in some cases, years. This, even though in most cases”—this is quite telling, Madam Chair—“when judges retire they give six months’...notice” to the chief justice of their respective province. This isn’t an abrupt decision to retire next week; there is a six-month period in which vacancies could be filled, but it’s not happening.

I pulled another article by a civil litigator in Toronto by the name of Kathryn Marshall. She wrote an op-ed in one of our papers not too long ago. The title was “Our judicial system is broken, but politicians don’t seem to care”. Well, I can tell you that this politician certainly cares. The entire Conservative bench certainly cares, which is why we brought this motion. She indicated that there was a particular victim from an Ontario town who was “scheduled to testify against her alleged rapist this past summer. But when she turned up for her day in court, she was told her case couldn’t proceed because there was no courtroom available.”

She said:

Talk to any lawyer and they will tell you horror stories about turning up for Day One of a trial only to be told there is no courtroom or judge available. For lawyers it is frustrating, but for a victim of a crime who has mustered the courage to come forward, it is beyond devastating.

● (1135)

We all know how our criminal justice system has changed in light of the Supreme Court of Canada decision in *R. v. Jordan*. Jordan has set a presumptive ceiling by which cases must be completed in the lower court and in the superior court. It’s 18 months in the lower court and 30 months in the higher court. When you don’t have judges to fill the courtrooms, you have serious cases—sometimes homicides, serious domestic violence and serious gun offences—where the judge who is ultimately hearing a violation of the right to be tried within a reasonable time will often conclude that the Crown has not discharged its onus and that there is a charter violation. That violation results in a withdrawal or dismissal of the charges.

Now, what kind of message is this committee sending to victims across this country, “you don’t matter”? We already have a serious issue with domestic victims coming forward. They don’t trust our system. We have an opportunity as parliamentarians, particularly in this committee, which should be charged with this responsibility, to ensure the timely and efficient delivery of judicial services in both the criminal and the civil field. In my view, to turn down this very serious, important and relevant study is shameful.

Thank you. Those are my comments.

● (1140)

The Chair: Thank you, Mr. Brock.

Mr. Van Popta, go ahead, please.

Mr. Tako Van Popta (Langley—Aldergrove, CPC): Thank you, Madam Chair.

I wasn’t going to speak on this until Mr. Maloney suggested that the Conservatives putting forward this motion to study the government’s negligence in appointing judges in a timely fashion somehow brings the administration of justice into disrepute. I would say exactly the opposite. We’re shining a bright light on the negligence of this government and how that negligence is bringing the administration of justice into disrepute. That’s not me speaking. That’s not the Conservative members of Parliament speaking. That’s our Chief Justice Wagner speaking last year at some time. I would just say it’s very remarkable for any judge to go public with concerns like that. I think that highlights how serious the matter is.

I have a couple of quotes from a letter—this is an unofficial translation to English—in which Justice Wagner expresses his grave concerns regarding the significant number of vacancies within the federal judiciary. He talks about the access to justice and the health of our democratic institutions being in danger. These are very serious allegations. I think, of all people, the justice committee of Parliament should be very concerned about this. That’s why it’s such an important study and we need to go ahead with it.

Here’s another quote from Justice Wagner’s letter. He says vacant positions have significant impacts on the administration of justice, the functioning of the courts and the health of judges. He says the impact of vacant positions on judges themselves is also significant. Faced with chronic work overload and increased stress, it is increasingly common to see judges placed on medical leave, which has a domino effect on their colleagues, who must carry the additional burden.

I think this is a very interesting sentence, because it relates to my province. If current difficulties continue, it could also become more difficult to attract quality candidates for judgeship. This is already the case in British Columbia.

If anything brings the administration of justice into disrepute, it is the failure of this government time and time again to appoint judges in a timely fashion.

My colleague Mr. Brock referred to the *R. v. Jordan* case. Justice Wagner does as well. He highlights that because of the 30-month requirement to bring cases to trial and conviction, or acquittal, a number of cases have just been dismissed. He says the Court of King’s Bench of Alberta reports that more than 22% of pending criminal cases exceed the 30-month time limit, and that “91 per cent of those cases involve serious and violent crimes”. That’s what’s bringing the administration of justice into disrepute.

There are current cases pending before the courts right now. One is in relation to four men who have been charged with serious offences in connection with the blockades at the Coutts border crossing two years ago. Those men have not yet been brought to trial. It’s been 23 months now—only seven months away from the deadline.

This is what members of the public are saying about this. I'm reading from the Calgary Herald, over the weekend: "The biggest reason"—I think there was another parade, I would call it, in support of these four men who have been charged but not yet tried—"other than to relive for some that moment is the fact there are still four men denied bail in remand, 712 days stemming from that event". This person goes on to say, "We need to focus on the fact that the reality is that our bail system is broken for these men for a crime that has not been proven; they have spent 712 days in remand".

Madam Chair, these are members of the public speaking. They are not lawyers. This is the sense that many members of the public have about our criminal justice system. They feel that people are denied the right to a speedy trial as defended by section 11 of the Charter of Rights and Freedoms, which says, "Any person charged with an offence has the right...to be tried within a reasonable time." The Jordan case was a response to that constitutional right, and it is currently being denied for many people.

• (1145)

I would just wrap up with this. We see a track record that this Liberal government has a disregard for people's charter rights and freedoms. I'm thinking of the recent decision of the Federal Court by Justice Richard Mosley, who highlighted the fact that confiscating people's bank accounts was a violation of people's charter rights under section 8 of the charter, which states, "Everyone has the right to be secure against unreasonable search or seizure."

This government disregarded that right, even though it had been pointed out to them during debate in Parliament in connection with the invocation of the Emergencies Act. This government disregarded it, and I'm very happy to see that the Federal Court has shone a bright light on it. That's exactly what the Conservative members of this committee want to do now.

Thank you.

The Chair: Thank you very much.

I will now move to Mr. Caputo.

Mr. Frank Caputo (Kamloops—Thompson—Cariboo, CPC): Thank you very much, Madam Chair.

I'm exceedingly disappointed here today, when we look at the Liberal government once again, after eight years, getting in the way of justice for ordinary Canadians. At the end of the day, there are people who are sitting in bail on remand, there are people who are dealing with the division of significant assets in a marital breakdown and there are people who may have been injured in a serious act of negligence who are not getting their day in court. That falls directly at the feet of this Liberal government, and yet here we are today to investigate this.

Here's the issue. The Prime Minister's Office was meddling in judicial appointments. If there is no reason to study that, then we might as well just pack our bags and get out of here. This was from the former Minister of Justice, who was anything but non-partisan in a number of different facets.

This Liberal government is saying that they don't want to look at this and there's nothing to see here. We know that the Liberals will

vote against this. The question for me, really, is whether the NDP will again go along in their act as part of a cover-up coalition and vote with the Liberals to shut this meeting down, or whether they will do what's right for Canadians. Now, this has to occur in the interest of all Canadians, full stop.

I am going to address some of the things Mr. Maloney said. He talked about the integrity of the system. Do you want integrity of the system? Let's look at that. The integrity of the system is brought into disrepute when the Prime Minister's Office isn't appointing judges when judges need to be appointed and are recommended to be appointed. I can't think of anything that would have equal impact on the administration of justice, from the point of view of judicial oversight and actually administering justice.

Mr. Maloney also says that this is a political discussion. Well, tell that to the people who are waiting in remand for trial. Tell that to the people who are waiting for a judge in family court and have two, three or four trial dates cancelled. Tell that to the person who was rear-ended eight years ago, has a traumatic brain injury and is waiting for their settlement. I don't think they would think this is a political discussion.

He says Bill C-40 is an issue here. Well, I can dispel that right here, right now. We're saying that we'll study Bill C-40 on Thursday. We're talking about today having meetings. Bill C-40 will be done on Thursday—I promise you that—so this idea that Bill C-40 should get in the way of Canadians getting to the truth is unfounded, in my view.

Now let's see what the NDP does.

Thank you.

• (1150)

[*Translation*]

The Chair: Mr. Fortin, you have the floor.

Mr. Rhéal Éloi Fortin: Thank you, Madam Chair.

As you may have guessed, I add my voice to those of my Conservative colleagues to ask us to proceed with this study.

I was rereading the article that featured the letter from Justice Wagner on May 3. This is not exactly trivial; the Chief Justice of Canada wrote to the Prime Minister to tell him the situation is untenable. According to what I have in front of me, he said: "The government's inertia regarding vacancies and the absence of satisfactory explanations for these delays are disconcerting." That was back in May. At the time, I think 85 judicial positions needed to be filled. According to the numbers I just obtained, as of January 1 this year, there are still 79 positions open.

I also have a great deal of respect for Mr. Lametti. I think he did his best as Minister of Justice. I am not privy to government backrooms, so I am in a bad position to judge who is responsible for what, exactly. That said, from the point of view of the office I do hold, the only people who can be held accountable for this problem are the Minister of Justice and the Prime Minister.

As you know, I've been working on this file for many years. In 2020, I tabled a motion before this committee, asking it to proceed with the study of the process for appointing judges, to look into the issue and try to determine what the problem is. We did not do so, because my motion was voted down.

I admit, when I saw our Conservative colleagues' request to have the committee look into the issue, I could not do anything but support it. I think they are right. I am sure, deep down, that my Liberal colleagues agree with us. As for knowing whether they will vote for the current motion, that's a whole other matter. All kinds of considerations come into play.

I don't know a single legal expert throughout Quebec who thinks that filling vacant judges' positions within a reasonable timeframe is unimportant, and I'm sure it's the same throughout the rest of Canada. We cannot do otherwise.

Trust in our courts, in our judges and in our justice system is essential, as Mr. Maloney said. I agree with him. We are responsible, in a certain sense, for maintaining that trust. I'm talking here not just about members of the Standing Committee on Justice and Human Rights, but about all parliamentarians.

Once again, I have a great deal of respect for Mr. Lametti. The goal isn't to blame him. I have just as much respect for the honorable Justice Wagner, who is doing exceptional work at the Supreme Court of Canada. When I hear these two respectable men, for whom I have a great deal of respect, tell us there is a problem and it has to be solved, when I see Justice Wagner warning us the situation could degenerate and undermine the public's trust in the judicial system, I think we can't just sit on our hands and do nothing.

Does Prime Minister Trudeau have a good explanation for us? It's possible, we will have to see. Our job is to ask him to explain to us why 79 positions were still vacant as of January 1, why only four or five positions were filled since the letter from Justice Wagner on May 3. I think we absolutely have to hear from witnesses on this issue to understand what is going on and, if necessary, sound the alarm at the Prime Minister's Office that the situation must be resolved.

It is not true that everything is fine. Everyone can see the problem. I was listening to our colleagues describe the situation in courthouses. I can tell you it's the same in Quebec. Some trials don't happen, whereas the lack of judges, clerks or available rooms delay other trials or even simple inquiries. I understand that part of the administration of justice falls under provincial jurisdiction. However, the issue of appointing federal judges is part of federal parliamentarians' work. We have to hold accountable those responsible for the justice system, meaning the Minister of Justice and the Prime Minister.

To that effect, I plan to support the motion from our Conservative colleagues.

• (1155)

I would go even further by moving an amendment to the section that reads, "four meeting study in order to assess the impact of the insufficient number of judges Canada has". As well as "assess the

impact", I would add, "and study the nomination process in place and the reasons for delays". It would be interesting to hear about the impact. I think we all suspect it's very serious; we are not wrong about that. Beyond that impact, however, the process in place does not seem to be working. It's been a recurring problem for years, so we must look into it. That's the goal of the amendment I put forward.

I would also move a second amendment, so that we can hear from the Prime Minister as well. The current Minister of Justice is mentioned...

The Chair: Wait a moment, Mr. Fortin. I'm told it is not possible for you to move two amendments at the same time. You can move only one, in which you may add something else.

Mr. Rhéal Éloi Fortin: Perhaps I misspoke when moving my amendment. I agree with you and understand the problem you pointed out.

In the motion, it is already written "assess the impact of the insufficient number of judges Canada has". I want to add, "and study the nomination process in place and the reasons for delays". Then, I would add the name of the Prime Minister to the list of witnesses the motion asks the committee to call forward. That's part of the same amendment, essentially.

The former minister of justice, Mr. Lametti, told us that the appointment process was being held up at the Prime Minister's Office. So, if we want to give this issue serious consideration, we have to question the Prime Minister. I understand he might tell us that he's not the one who deals with it, that it's someone else in his office. He just has to tell us who and then we'll see what we do. In that case, we could hear from someone else. Regardless, those who have to be held to account before Parliament are the Minister of Justice and the Prime Minister. We have to hear from both of them to seriously look into this matter. What interests me the most is understanding why the process in place is so slow.

[English]

Mr. Charlie Angus (Timmins—James Bay, NDP): I have a point of order.

The Chair: Yes, go ahead on a point of order.

Mr. Charlie Angus: Can we have the amendment in writing? I was getting confused between what was explaining the amendment and what was the amendment, and I couldn't quite follow it. If I could see it in writing, it would be helpful.

The Chair: Yes, we're going to translate it into English, and the clerk will circulate it.

Let's suspend for a moment.

I know, Mr. Maloney, you're next on my list.

• (1155)

(Pause)

• (1205)

The Chair: We will resume.

Everybody should have received by email the amendment in both languages.

We'll continue now with our list.

We have the amendment and the main motion.

Mr. Maloney, go ahead.

Mr. James Maloney: Thank you, Madam Chair.

My comments on the amendment are pretty much the same as what I was going to say.

I wasn't going to speak again either, Mr. Van Popta, until I heard some of the comments from that side of the table. Being a lawyer, I feel compelled to respond and set the record straight.

As I said at the outset, this motion is politically charged. If I wasn't right before, I am now, because the amendment makes it clear that it's political. It can be interpreted no other way.

I'm going to address a number of points that my colleagues across the way have made. I think it was Mr. Caputo—or maybe it was Mr. Van Popta—who said it was remarkable that a judge goes public to speak about judicial appointments. There's really nothing remarkable about it at all. I attended the opening of the court ceremony in Toronto for many, many years, and there was a standard line in the speech of the chief justice. Even prior to 2015, because that's when I was going, it was about how there were x number of vacancies in the province of Ontario and how the government of the day needed to make sure those were filled. This is nothing more than judges reminding politicians of all stripes about the importance of making judicial appointments and about making sure they're current. There's nothing new under the sun about that. There's really nothing remarkable at all about that.

Mr. Brock talked about supernumerary judges. Yes, they provide six months' notice when they're going to go supernumerary, but something the general public might not understand is that when a judge goes supernumerary, he or she continues to serve as a Superior Court judge in that province but sitting for fewer weeks. It's about 50% of the time. If you do the math, if a number of people go supernumerary and those people are replaced, you actually have more judicial capacity than you had before.

He quoted the number as going from 100 to 79 currently, but that doesn't factor in the ongoing retirement. It suggests that only 21 appointments have been made, and that couldn't be farther from the truth. Then he quoted the article written by this civil litigator in Toronto—I was a civil litigator in Toronto—and then he went on to talk about the blame being put on the lack of courtrooms. Lawyers who practise in the Superior Court know that the only component of the system that falls on the federal government is the appointment of the judges. As for the lack of courtrooms, when you walk into a Superior Court courtroom in the province of Ontario, the person you're looking at up on the bench was put there by the federal government and paid by the federal government. Everything else—from the light bulbs, the desks and the staff to the number of courtrooms—is the responsibility of the provincial government, which has nothing to do with the reference to judicial vacancies; I'm sorry.

In fact, we all agree on one thing, which is the importance of making sure that judicial vacancies are filled and making sure that

access is available to all parties, whether we're talking about criminal, civil or family court. After we were elected in 2015, we introduced legislation that would actually increase the complement of superior court judges, not decrease it. That creates greater access to the courts.

As for the Jordan decision, which keeps getting thrown around, I would remind people that it was based on a set of facts that started in 2009 and ended in 2015. When we use words like “negligence” when talking about appointing judges, how can that do anything but create fear and confusion in the eyes of the public? Using the Jordan decision as an example of anything to do with this current government is factually incorrect. I'm sorry. That was based on a decision, on facts and on the court system under the previous government, if you want to be clear on it. If you want to use it, let's make sure people understand.

One thing we do agree on, as Mr. Brock pointed out, is that the current Minister of Justice has done a very good job of making appointments and making them quickly. That's not going to change. We've seen evidence of that today.

My last point is this, subject to anything else I might hear today. With respect to the delay of Bill C-40, having this discussion right now is already delaying Bill C-40 further, because had we not been dealing with this motion, I suspect that by 12:30 today, we would have been adjourning the meeting because the bill would have been passed.

• (1210)

Let's get on with it. Thank you.

The Chair: Thank you very much, Mr. Maloney.

I don't have any speakers, so I'm going to call for the vote on the amendment.

(Amendment negatived: nays 6; yeas 5 [*See Minutes of Proceedings*])

The Chair: I am now going to call for the vote on the main motion.

(Motion negatived: nays 6; yeas 5)

The Chair: Thank you very much, Mr. Clerk.

That concludes the business for which we are here in front of you today.

I will remind you that on Thursday we will continue. My expectation, based on colleagues' representation here in public, is that we will finish Bill C-40 on Thursday.

Do I have a motion for adjournment today, Mr. Maloney?

• (1215)

Mr. James Maloney: Yes, Madam Chair.

The Chair: The meeting is adjourned. Thank you very much.

[*Translation*]

Have a good day.

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