



The Advocates' Society La Société des plaideurs

February 26, 2024

VIA EMAIL: premier@ontario.ca

The Honourable Doug Ford, M.P.P.
Premier of Ontario
Legislative Building
Queen's Park
Toronto, Ontario M7A 1A1

Dear Premier:

RE: Independence of the Judiciary in Ontario

I write to you on behalf of The Advocates' Society. The Advocates' Society is a not-for-profit organization representing over 6,000 courtroom advocates across the country, including more than 4,700 who practise in Ontario. As the leading association of litigation counsel in Canada, part of The Advocates' Society's mission is to act as the voice of legal advocates in the justice system and to convey their views on matters affecting the administration of justice.

The Advocates' Society believes that Canada's strong, independent and impartial judiciary is the cornerstone of our justice system and constitutes the foundation for the rule of law in our country.¹ The independence and rigour of the process by which judges are appointed is inextricably linked to the independence and quality of the judiciary.

The Advocates' Society has noted with serious concern your recent comments about the objectives guiding your Government's appointment of provincial judges and justices of the peace to the Ontario Court of Justice, and appointment of individuals to the Judicial Appointments Advisory Committee. Your comments—and the approach to judicial appointments that your comments convey—pose a substantial threat to the independence of Ontario's judges from the Government and to public confidence in the administration of justice in this province.

To ensure judicial independence, governments must—through a robust and transparent appointment process that is free of political partisanship—appoint judges who are qualified, unbiased, principled, impartial, and reflective of Canadian society. The fact that a candidate holds the same beliefs as the government of the day, or is a member of the party in power, should never factor in their selection as a judge. The role of a judge is to apply the law as it stands to the facts of the case before them as they find them to be, without fear or favour; it is not to implement wider government policies, such as being “tough” or “soft” on crime, by means of their judgments in individual cases. To suggest otherwise violates the separation of powers ingrained in Canada's constitutional order, and undermines the judiciary's independence as the third, equal branch of government. Moreover, to suggest otherwise weakens public confidence in the independence of Ontario's judges and their ability to make fair, impartial decisions.

¹ See The Advocates' Society, [Judicial Independence: Defending an Honoured Principle in a New Age](#) (April 2020); Canadian Judicial Council, [Ethical Principles for Judges](#) (2021).

We implore your Government to have regard for these principles, and to assure the public you are doing so, when carrying out your responsibility to appoint provincial judges in accordance with the *Courts of Justice Act*.

Yours sincerely,

A handwritten signature in black ink, appearing to read "D. Hussey", with a long horizontal flourish extending to the right.

Dominique T. Hussey
President

CC: The Honourable Doug Downey, K.C., M.P.P., Attorney General of Ontario
Vicki White, Chief Executive Officer, The Advocates' Society