



Nathaniel Erskine-Smith, M.P.
Beaches-East York



Here are my reasons for supporting today's opposition motion, sponsored by my colleague and Co-Vice Chair on the Ethics Committee. It called for the following:

1. The Prime Minister to waive solicitor-client privilege for the former Attorney General with respect to the allegations of interference in the prosecution of SNC-Lavalin; and
2. A public inquiry and report by May 31, 2019 to provide Canadians transparency about what happened.

We have a constitutional convention in Canada that the Attorney General must act independently of the cabinet in the exercise of the prosecution function.

To that end, the Attorney General must consider the public interest in any continued prosecution and may consult with cabinet colleagues to seek advice regarding public policy considerations. However, the Attorney General must not shift their decision to the cabinet, and the responsibility for any eventual decision rests with the Attorney General.

Constitutional conventions, like this one, can evolve over time, and their violation does not come with any specific sanctions. But the convention of Attorney General independence is also a very important one that ought to be defended.

With respect to the SNC case, in particular, an intervention by the PMO may well have been justified. After all, the purpose of remediation agreements under the Criminal Code explicitly refers to protecting employee jobs and pensions, and it's plausible that a 10 year ban on government contracts could seriously jeopardize those interests. These are real public policy considerations that the Attorney General and Director of Public Prosecutions ought to consider.

Significant transparency is also built into the decision-making system for any intervention on remediation agreements. First, if an Attorney General exercises authority to direct a prosecution pursuant to the Director of Public Prosecutions Act, such direction must be in writing. More, to guarantee additional scrutiny, any decision to enter into a remediation agreement is also subject to judicial review.



Nathaniel Erskine-Smith, M.P.
Beaches-East York



In my view, if individual SNC executives involved in the bribery scandal are prosecuted to the fullest extent of the law, and if SNC disgorges profits from the wrongdoing in question and also pays a significant and punitive fine, a remediation agreement may well have been an appropriate policy option.

But my view doesn't matter. Not only do I lack complete information, but the decision rightly rests with the Attorney General and the Director of Public Prosecutions.

Whether or not an intervention may have been justified in substance, the real question is the nature of that intervention. Specifically, was undue pressure exerted, contrary to the constitutional convention of Attorney General independence?

This is impossible to answer without giving the former Attorney General an opportunity to speak. The Honourable Jody Wilson-Raybould asked for this opportunity today, and it should be provided to her, without limitation.

Like my colleagues, I'm hopeful that the Justice committee can be a forum for discerning the truth.

But I also support an independent process, absent partisan interest. The investigatory approach of the Office of the Ethics Commissioner is reasonable in the circumstances, but that office has no mandate to determine the question at issue.

In the end, citizens deserve the truth. The truth, like confidence in our public institutions, depends on a serious commitment to openness and transparency.

My vote today does not take away from the confidence I have in our Liberal government. While no government is perfect, I continue to believe that our government has shown much greater respect for our democratic institutions and processes than previous administrations.

Lastly, as we debate ethical concerns, it is not lost on me that the leader of the Official Opposition shared a stage with Faith Goldy this week. If he truly believes in his new rhetoric of transparency, he should answer for that and clearly distance himself from such hate and racism.