

Speech delivered by Chief Justice Marc Noël at the opening of the Courts in
Montréal on the theme "Why not?"

September 8, 2016

Honourable Chief Justices and Associate Chief Justices, Honourable judges from all jurisdictions represented here, Madam Bâtonnière and Mr. Bâtonnier, Members of the Bar of Montreal, distinguished guests:

Mr. Bâtonnier, let me start by saying that I was perplexed, and even surprised, by the order in which you called the Chief Judges of the various Courts to speak this morning. But, in listening to the speeches that were made before mine, I quickly realized that you had saved the best for last...

The court system may seem complicated, even to insiders.

In addition to the legal uncertainty often involved in determining the jurisdiction of the courts in Quebec, there are judges appointed by the provincial government to courts administered by the province, such as the judges of the Court of Quebec; there are judges appointed by the federal government to courts administered by the province, such as the judges of the Superior Court; and there are also judges appointed by the federal government to federally administered courts.

Today, I am speaking to you on behalf of this third category of judges, which includes judges from the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court of Canada, and the Tax Court of Canada. These Courts comprise some 90 judges and

prothonotaries—150 if we include provincial Court of Appeal and Superior Court judges who are also members of the Court Martial Appeal Court.

A third of these judges, myself included, are from Quebec and are trained in civil law. In this capacity, we are asked to sit in Quebec, mainly in Montréal, on a regular and continuous basis.

The jurisdiction of the Federal Courts, both shared and exclusive, is framed by the powers conferred on the Federal Government by virtue of section 91 of the *Constitution Act, 1867*. These jurisdictions are diverse, specialized and have increased in importance, in this world marked by instant communication, globalization and changing demographics. To illustrate the point, one needs only think of the regulation of the Internet both in terms of content and infrastructure, the growing flow of refugees and immigrants, in a world that is becoming increasingly inhospitable, national security repercussions, or the task of overseeing the patent war between patent based manufacturers of pharmaceutical products and the makers of cheaper and more accessible generic versions.

Quebec justice system users faced with a legal problem in one of these areas have little or no interest in the jurisdictional origin of their dispute or in the name of the court that will hear their case. What they want is to have their problem resolved as quickly as possible. As far as they are concerned, Federal Court judges—I am using this term in a generic sense—play the same role and function in the same way as judges from other Quebec courts. In fact, it is not surprising to note that the list of Quebec judges—long championed by the late Ignace-J. Deslauriers—has always included Quebecers sitting on Federal Courts as part of the Quebec judicial family.

It is in this vein that I asked Mr. Tremblay, "why not?" Why not do something different this year and invite the Federal Court judges to join their colleagues from Court of Appeal, Superior Court and Court of Quebec and report on their activities of interest at the opening of the Courts. I want to thank him for the collaborative spirit and open-mindedness with which he agreed to my request.

First, I am happy to report that, in terms of legal activities, statistics have shown an efficient turnaround time over the past five years for all Federal Courts.

For the 2015-2016 judicial year, the Federal Court heard and ruled on 4,100 cases nationally, including almost 500 in Quebec, of which the majority (480) were in Montréal.

The statistics point in the same direction for the Tax Court of Canada based on the number of cases scheduled for hearing. Some 6,000 such cases were to proceed during the past judicial year, of which 800 were scheduled to be heard in Montréal.

The Federal Court of Appeal heard 300 cases, a quarter of which were in Quebec, almost exclusively in Montréal.

I am happy to report that none of the Federal Courts carry a backlog either in terms of case scheduling, or the issuing of judgments. This is in great part due to the fact that, contrary to other courts in the country, we have no noticeable shortage of judges. We are grateful to the federal Minister of Justice, Jody Wilson-Raybould and her predecessor, Peter McKay, for this positive state of affairs.

Of note in 2015-2016 is the appointment of the Honourable Lucie Lamarre as Associate Chief Judge of the Tax Court of Canada. Mr. Justice Yves de Montigny from Gatineau was promoted from the Federal Court to the Federal Court of Appeal. I would also mention the appointment of the Honourable Denis Gascon to the Federal Court and as chairperson of the Competition Tribunal; of the Honourable Sylvie Roussel to the Federal Court and the appointment of the Honourable Dominique Lafleur and the Honourable Sylvain Ouimet to the Tax Court of Canada.

In terms of accommodations, our premises in Montréal are currently located at 30 McGill—for those in the know it's the beige brick building at the corner of de la Commune—our lease expires in 2019.

Several options are being studied to house the Federal Courts after that date. The main choices are to acquire the building we are currently in or the Gérald Godin building at 360 McGill, which is currently occupied by Immigration Québec.

Also under consideration is the Lucien Saulnier building, a heritage building and former courthouse, which currently belongs to the City of Montréal and has the advantage of being close by, across from the Ernest Cormier building that is home to the Court of Appeal.

The plan would be for the City to cede this building to the Federal Government who would refurbish it and hopefully give it the glory of its early days. The building, once renovated, would be too spacious for the Federal Courts alone and would therefore have to be occupied by other Quebec tribunals and courts.

Chief Justice Crampton and I support this project that would have the advantage of bringing the judges of all the courts together in one complex. However, one cannot but recognize that this is the most expensive option. While I am aware that large-scale projects are not easy to implement, I see a unique opportunity to gather the Quebec judiciary and recreate a judicial centre in the heart of Old Montréal, while at the same time reconnecting with more than 110 years of history.

I promised the Bâtonnier that I would stay within my allotted time and I see that my time is already up. In the hopes of not ruining our chances of being invited again next year, I am going to do as I was asked. But before I do, I must join my colleagues in commending Chief Justice Corte. We work in different areas, but I have had the opportunity to work alongside her on several occasions over the last two years and, on behalf of all the judges I represent, I thank her for her great contribution to Quebec's Court System.

Thank you for your attention.