



January 16, 2004

Mrs. Jeanne Ruest
Executive Director
**JUDICIAL COMPENSATION AND
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Dear Mrs. Ruest :

Further to our telephone conversation yesterday, I am enclosing in English and in French a Memorandum prepared by the Honourable Claude Bisson and myself in respect of judicial annuities in the case of judges having retired between 1992 and 1997 during which the indexation clause with respect to judges' salaries was suspended.

I appeared as Chairman of the Judicial Benefits Committee of the Canadian Judicial Council before the Triennial Commission when the freeze was first applied in 1992.

While judges' salaries were subsequently corrected, such was not the case in respect of judges' annuities which remained frozen from 1992 to 1997.

As appears from the attached Memorandum, the difference today is enormous and stands to widen substantially in years to come.

Should you so require, Mr. Claude Bisson and I would be prepared to appear before the Commission in Ottawa on February 6, 2004.

Yours very truly,

LAP/nj

Encl.

c.c. The Honourable Claude Bisson, O.C.

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MEMORANDUM

JUDICIAL ANNUITIES

In a decision rendered by the Supreme Court of Canada and reported as : Reference re the Remuneration of Judges of the Provincial Court of Prince Edward Island, (1997) 3 S.C.R. 3, The Right Honourable Antonio Lamer, then Chief Justice, wrote that no changes to or freezes in judicial remuneration could be effected without prior recourse to an independent body and that no reduction, by erosion, through inflation or otherwise, could take judicial salaries below a basic minimum level of remuneration required for the office of a judge.

The indexation clause, with reference to judges' salaries in the Judges Act, was suspended between April 1, 1992, and March 31, 1997¹.

Following recommendations of the Drouin Report, judges' salaries were increased considerably commencing April 1, 2000. However, suspension of the indexation clause was never corrected insofar as the 131 judges who had retired between 1992 and 1997. Thus, despite the fact that the latter's salaries sustained a substantial erosion during such years as a result of the suspension of the indexation clause, the level of their annuity or pension has never been adjusted and the erosion which occurred between 1992 and 1997 continues increasingly year after year.

From 1992 to 1997, puisne judges and chief justices of superior courts earned \$155,800 and \$170,600, respectively. They earn \$216,600 and \$237,400, respectively, today.

¹ An Act to provide for government expenditure restraint, 1993 ch. 13, s. 10.

The pension of a puisne judge and/or a chief justice who retired between 1992 and 1997 is calculated on the basis of salaries then earned (\$155,800 and \$170,600, respectively) and adjusted since 1998 in accordance with the cost of living. Such pension today stands at about \$117,000 or \$128,000, respectively.

The pension of a puisne judge or of a chief justice who retires in 2003 is based on his last annual salary of \$216,600 or \$237,400, respectively. It accordingly stands at \$144,255 or \$158,108, respectively.

In other words, the spread today (in excess of \$27,000 annually) is such that not only is the pension of a former chief justice who retired between 1992 and 1997 (approximately \$128,000) below that of a newly retired chief justice (\$158,108), it is even substantially below that of a newly retired puisne judge (\$144,255).

Thus if, since 1997, the legislator has corrected the gap which developed in judges' salaries between 1992 and 1997, such was not the case for judges who retired during the same period. If the situation is allowed to deteriorate further, not only will such judges' pensions continue to erode, but the erosion will extend to their surviving spouses.

CLAUDE BISSON

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