Ex-SCC judge’s boosting of Takach questioned

Appearance in video not a partisan endorsement, Binnie says

CRISTIN SCHMITZ
OTTAWA

Ian Binnie says his support for federal Liberal leadership candidate George Takach at a Bay Street fundraiser and on YouTube was not a partisan political “endorsement,” but simply applause for “the get-up-and-go initiative” of his friend and former law partner at McCarthy Tétrault.

Binnie, who retired from the Supreme Court of Canada in October, 2011, starred in a 44-second YouTube video shot at a fundraiser at McCarthy Tétrault’s offices in Toronto’s TD Tower and posted by the Takach campaign team.

“Purchase your ticket now to join the Honourable Ian Binnie, C.C. Q.C., at a fundraising event in support of George Takach and his candidacy for Leader of the Liberal Party of Canada,” urged the promotional notice posted on georgetakach.ca. “Newly named as a Companion of the Order of Canada, Ian Binnie will share his thoughts on why George is the man to lead the Liberal Party of Canada and spark debate on Twitter about why I think politicians would do so.”

Binnie wrote in an e-mail. “I’m glad George is preparing to get into the arena. I wish you age out from a job. Justice Binnie served ably and admirably on the SCC. How he remains engaged now doesn’t affect his jurisprudence.”

The video’s original YouTube headline was later changed to “private.”

“Justice Ian Binnie ‘endorsed’ George Takach as the best candidate to lead the Liberal Party of Canada. Mr. Binnie served as a Justice on the Supreme Court of Canada from 1998-2011.”

tweeted former Liberal candidate Dan Veniez. “Lifetime jurists who publicly declare partisan preferences undermine the trust we must have in their impartiality.”

“Binnie is a retired justice,” responded Winnipeg litigator Christian Monnin, past-president of the Manitoba branch of the federal Liberal Party. “One’s desire and willingness to be involved in our democracy isn’t mothballed after you age out from a job. Justice Binnie served ably and admirably on the SCC. How he remains engaged now doesn’t affect his jurisprudence.”

The video’s original YouTube description, changed at Binnie’s request after he was questioned about it by reporters, stated that “on December 4, 2012, the Hon. Mr. Justice Ian Binnie, C.C., Q.C., endorsed George Takach as the best candidate to lead the Liberal Party of Canada. Mr. Binnie served as a Justice on the Supreme Court of Canada from 1998-2011.”

Chief David Akin posted the YouTube video on his blog under the headline “Former Supreme Court Justice jumps into Liberal leadership race.”

“You’d have to make a pretty strong case, it seems to me, why we should deprive Mr. Binnie, or anybody, of his ability to express political views once he’s no longer a judge,” Pitel said, adding the caveat that ex-Supreme Court judges should not be referred to, in the present tense, as “Judge” or “Justice” when they engage in political activity. It was the Takach campaign, not Binnie, who referred to the former judge as “Justice” Binnie—an honorific routinely accorded by the legal community to former Supreme Court judges, he said.

However, “it is an endorsement for somebody who is running for a major political party, and in those circumstances you might say [one] should strive to get it technically right,” Pitel said he doesn’t think that the Supreme Court’s independence or reputation for political neutrality would be tarnished if ex-judges express political views.

“Reasonable-thinking Canadians understand that people, before they were appointed to the bench, have political views that they are perfectly at liberty to express,” Pitel said. “We understand that when they are on the bench they shouldn’t be expressing those views because that’s not consistent with the role of the court.”

Binnie is now “a citizen like anybody else,” he said.

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