

News

Ex-SCC judge's boosting of Takach questioned

Appearance in video not a partisan endorsement, Binnie says

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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 leader that both the Liberal Party and Canadian business need to fully embrace the abundant opportunities of the 21st century. Your contribution will help us fund a winning campaign."

Binnie told *The Lawyers Weekly* his praise for Takach's initiative in entering politics was not partisan.

"I am not a Liberal — whether or not George is the best candidate is for the Liberal Party to decide," Binnie wrote in an e-mail. "I'm glad George is prepared to get into the arena. I wish more people who are not career politicians would do so."

Binnie's YouTube promo sparked debate on Twitter about whether ex-Supreme Court judges should wade into partisan politics.

"Justice Ian Binnie 'endorsed' George Takach for Liberal Party of Canada leader. Big mistake! Judicial independence sacrosanct, not to be politicized,"



Retired Supreme Court Justice Ian Binnie says his endorsement of George Takach was personal, not political. LAWYERS WEEKLY FILE PHOTO

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."



Pitel

"The campaign made a mistake," said Binnie, who is now with Toronto's Lenczner Slaght. "There was no endorsement. I am simply applauding the get-up-and-go initiative of an old friend and former partner."

The YouTube headline was later changed by the Takach campaign team to say: "Ian Binnie speaks about George Takach." At press time, the video was no longer visible on YouTube (its setting had been changed to "private").

SunMedia national bureau

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

"Count me among those who find this inappropriate," tweeted Post-media columnist Andrew Coyne.

Court watchers said they couldn't recall the issue of the post-retirement political activity of ex-Supreme Court judges coming up before.

University of Western Ontario law professor Stephen Pitel told *The Lawyers Weekly* former judges are just as entitled as anyone else to express their political views.

"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-members 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.

Ian Binnie's YouTube promo for George Takach

► At the opening of the YouTube video unveiled Jan. 8 by the campaign for federal Liberal leadership candidate George Takach, Ian Binnie shakes hands with his ex-law partner in front of Liberal-red signs claiming "Canada Can Work Better."

► Attending a Takach fundraiser targeting the legal community in Toronto on Dec. 4, Binnie says to the camera: "I've been a personal friend of George's for 25 years. I'm not a political animal. I've never really spoken at a political rally. But I think it's important that the country not be left to career politicians. I think George has done a huge amount in his law career. He's an important figure in the legal community. He's willing to give that up and to join in the hustle and bustle of a political campaign and I think it's terrific and I absolutely wish him the best of luck."



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