

Foundations of Canadian Law – Practice Question and Answer

Session: The Executive and its Functions

Topic: Executive Institutions and the Political Executive

Recommended time: 75 Minutes

Score: 42 Marks

Author: Manuel Akinshola

Question

You are in a chat with Chen, your friend from China, telling her about the beauty of democracy and elective governments. She then makes the following remarks:

Yes, it's true that Canada enjoys parliamentary democracy. But that is just on the surface. I'm telling you that there are insufficient bulwarks in your Constitution to prevent partisanship by the executive, most especially in judicial appointments. The Prime Minister singlehandedly decides who becomes the Chief Justice, Supreme Court judge and other superior court judges, though they're presumed to be appointed by the Crown on the advice of a cabinet that is appointed by the Prime Minister and which serves at his pleasure. Same with the Premier for provincial courts. So, these guys can decide to "pack" the courts with judicial officers who are sympathetic towards their political ideologies. This is even worse in the areas of appointments of adjudicators and regulators who administer justice in everyday matters that concern every Canadian – utilities, housing, education, food, transport, health, etc. In addition to the lack of merit in most of these appointments, the partisan considerations put a large question mark on the independence of these administrative bodies. How then do you convince me that these institutions are free from pressure by the executive which appointed them?

How would you respond to your friend? Provide your answers with sufficient references to materials from the current syllabus.