

April 10, 2019
(February Letter)

Dear Samantha,

I was intrigued by your January letter inquiring about the SNC-Lavalin issue that has been so much in the news. Your interest was enough to divert me from the letter I was composing for February, so I have switched to address your question as best I can. You will find my comments on it as a series of points provided below.

- As stated in Wikipedia (and on the SNC-Lavalin website): “**SNC-Lavalin Group Inc.** is a Canadian company based in [Montreal](#) that provides [engineering, procurement, and construction](#) (EPC) services in various industries including; mining and metallurgy, oil and gas, environment and water, infrastructure, and clean power. SNC-Lavalin is the largest construction company by revenue in all of Canada as of 2018.^[5] The firm has over 50,000 employees worldwide with offices in over 50 countries and operations in over 160 countries.”
- Some of the projects in Canada with which you might be familiar are the construction of the Canada Line section of the SkyTrain, the William Bennett Bridge in Kelowna, and the McGill University Health Centre in Montréal. All of these are billion-dollar projects.
- It has also had numerous international projects – like several hydro-electric construction jobs with the Indian government, several mining plants, and gas facilities in the USA and the Middle East.
- The company has been investigated for several legal violations including bribery, financial fraud, money-laundering, forgery, and kick-back schemes related to several of their projects in India, Libya, Bangladesh, and Canada. The Wikipedia article on them gives a good summary of these issues so I will not dwell on them here (<https://en.wikipedia.org/wiki/SNC-Lavalin> and [https://en.wikipedia.org/wiki/SNC-Lavalin affair](https://en.wikipedia.org/wiki/SNC-Lavalin_affair)).
- The company has also been criticized for its labour conditions in its international mining operations.
- There are a number of legal proceedings against the company in Québec and Canada – with charges laid by the RCMP and the Public Prosecution Service of Canada. If SNC-Lavalin is convicted it could be banned from bidding on government contract for up to 10 years in addition to having some of its executive officers jailed, and fines imposed.
- The company began an intensive lobbying campaign to avoid the consequences by getting the government to enact a “deferred prosecution agreement (DPA). This would allow the company to avoid the legal consequences of their criminal behaviour by making a deal to do something in exchange (e.g. paying back money, changing their operating procedure, firing certain people, etc.).
- A DPA can only be issued by the Attorney General of Canada.
- According to the Canadian constitution, the Attorney General must remain independent from political pressures by the government – and only take legal principles into account when making decisions. Jody Wilson-Raybould was the Attorney General at that time.
- Jody Wilson-Raybould was also the Minister of Justice, so she was a member of the Federal Cabinet. This is a long-standing principle of Canadian government: where the Attorney General is also the Minister of Justice. The objective of this dual position was to insure that the Attorney General was aware of cabinet decisions (since she was a Cabinet member as the Minister of Justice), but the law made clear that she was the person with final authority on matters related to her role as Attorney General. It also meant that she should not be pressured by political issues in her role as Attorney General.
- In January of this year, Wilson-Raybould was moved from her role as Attorney General to become the Minister of Veterans Affairs. In February, she resigned from this role.
- In February of this year, the media reported that Wilson-Raybould felt she had been pressured by the Prime Minister’s Office (PMO) to overturn the guilty verdict against SNC-Lavalin by issuing a deferred prosecution agreement. The Director of Public Prosecutions had rejected such a request, so the only person who could do it was the Attorney General.
- Since then several other people related to the issue resigned: Gerald Butts, the Principal Secretary to Trudeau; Jane Philpott, the President of the Treasury Board; and Michael Wernick, the Clerk of the Privy Council and Secretary to the Cabinet.
- The Justice Committee of the House of Commons established a series of hearings on the issue and included presentations by many of the people involved. One of the most important was from Wilson-Raybould at which she

confirmed her belief that she had been pressured by various PMO people to issue a DPA in response to the criminal convictions of SNC-Lavalin.

- The issue has resulted in a great deal of political rhetoric and speculation – with the major focus on the government to hear from more people and gather more evidence. The Justice Committee hearings are now closed, but there are other investigations which are still ongoing about the issue – including one by the Ethics Commissioner. The government also set up a Special Advisor (Anne McLellan) to consider whether the one person should hold both positions as Minister of Justice and Attorney General.

There are plenty of opinions about these events, of course – some of them respecting the facts of the case and others stretching that truth for political or personal gain. That’s another feature that makes the issue complicated. My opinion at this point in time includes the following elements.

- Cabinet discussions are likely to always include controversy and differences of opinion. This is as it should be since important issues are being debated and decided, the people around the table have big egos, and the power differences among them are large.
- The challenge is to figure out how to conduct these discussions in a climate of respect for the various positions represented and the people involved.
- Wilson-Raybould feels that this respect was not demonstrated by the pressures she felt in her decision regarding SNC-Lavalin. This must be taken seriously.
- The evidence which has been made public so far suggests to me that Wilson-Raybould was subject to a high level of political pressure – enough to question whether the separation of politics and the application of the law was respected.
- The lack to respect issue is complicated by its implications for the gender and Indigenous Peoples relations in Canada: two elements that the government has promised to improve. I expect that the boundaries of respect/disrespect are quite different as a result of the way women and Indigenous People have been treated in the past – and this has played an important part in the perceptions of Wilson-Raybould and Butts (for example) about whether their conversations were about communicating information or pressuring.
- The issue is also complicated by the history of the Canadian government giving corporations a high level or access to lobbying and accepting high levels of funding support from corporations. Both the Conservatives and the Liberals engage in this type of behaviour so much of the Conservative response to the issue is rather hypocritical as far as I am concerned. The resource-based corporations have been particularly involved in this type of shady influence (e.g. fisheries, mining, oil, agriculture, forestry) but it includes transportation, communication, and real-estate corporations as well.
- I keep looking for initiatives which can address the systemic failures involved, and not just the personal ones. The personal ones are likely to be short-lived at best since the people will change, but the systemic ones (like the separation of the roles of Attorney General and Minister of Justice) will remain.
- I hope that the controversy has the effect of modifying the behaviour and possibly structure of political discourse in the Cabinet – and among politicians in general. I have been appalled at the level of disrespect shown in the House of Commons (especially during Question Period) and the lack of respect for the facts presented. One of the first steps would be to discuss how this controversy reflects the ways in which women’s and Indigenous Peoples’ contributions have been dismissed or reinterpreted in negative ways. My expectation is that this is unlikely to be an outcome in spite of my hope!

I hope that these notes help you with your own deliberations about the issues. I am impressed that you have paid attention to them in spite of their complexity since they provide important insights into the functioning of government and the people involved.

Let me know of any aspects which are still confusing, and I will try to address them as best I can.

Love,
Bill