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Why not an SNC Lavalin plea deal?

EDITORIAL

WITH LESS THAN TWO MONTHS now remaining before the October 21 federal election, it's a ?lead-pipe cinch? that the Commons Ethics Committee won't be calling on Federal Ethics Commissioner Mario Dion to elaborate on his report which concluded that Prime Minister Justin Trudeau broke Canada's conflict of interest laws.

The commissioner found that, directly or through others under his direction, Mr. Trudeau sought to pressure former attorney-general Jody Wilson-Raybould to grant SNC-Lavalin a deferred prosecution agreement, which would have allowed the Quebec-based engineering firm to avoid a trial on corruption and fraud charges.

In the circumstances, the Liberal majority on the committee will see Mr. Dion's testimony as merely an opportunity to have the opposition parties keep the SNC-Lavalin affair on the front pages.

Without a doubt, the prosecution can establish the culpability of the engineering firm, whose senior employees spent millions of dollars bribing officials of the Libyan government of the day in bidding for lucrative contracts. Although the firm has pleaded not guilty, its unsuccessful campaigning for the deferred prosecution agreement was a tacit admission of guilt.

The affair became public when The Globe and Mail published an article last February quoting unnamed sources as saying Ms. Wilson-Raybould had been pressured to overturn a decision by the director of public prosecutions to proceed with the trial.

After Ms, Wilson-Raybould was shuffled to another cabinet position, she and fellow Liberal MP Jane Philpott resigned from the cabinet and Gerald Butts, Principal Secretary to Mr. Trudeau, resigned and Michael Wernick, Clerk of the Privy Council, retired early from his position. Both testified that in their view their conversations with the AG were entirely proper.

Since then, both Ms. Wilson-Raybould and Ms. Philpott have been booted out the the Liberal caucus and have opted to seek re-election as independents.

As for Mr. Trudeau, he has accepted the ethic commissioner's report but refused to apologize, on grounds he was merely trying to protect thousands of jobs that would be in jeopardy if SNC-Lavalin is found guilty and barred from bidding on any government projects for up to 10 years.

As matters stand, the stage has been set for a trial that could last years and cost both taxpayers and SCN-Lavalin shareholders millions of dollars.

If the alternative of a deferred prosecution agreement had been made available, SNC-Lavalin would still have found itself facing a significant fine but not any ban on bidding for government contracts.

In the circumstances, it's at least passing strange that there has been no talk of a third course of conduct that is normally open to lawyers of any accused party, plea bargaining.

It would seemingly be possible for SNC-Lavalin and the Crown to work out an agreed statement of facts to present to a Federal Court judge, who would then be in a position to come up with an appropriate disposition which would take into account not only the gravity of the offence but also what, if anything, the offending company had done to clean up its act and prevent similar conduct in the future.

In the end, the penalty SNC-Lavalin and its shareholders would suffer might not be all that different from that incurred in a deferred prosecution agreement.

A plea deal would not only save both parties millions of dollars in legal costs but also give the company and its shareholders some needed breathing room.

There's little doubt that the pending prosecution has been a major factor in the collapse of SNC-Lavalin stock.

Shares of SNC-Lavalin Group Inc. fell another 9.6 per cent Tuesday as a host of analysts slashed their price targets one day after the company announced a restructuring and a profit warning.

Raymond James stock analyst Frederic Bastien said his firm is telling investors ?to avoid the stock until there's stabilization in the earnings and until we get more visibility into the legal situation.?