

indicated that the federal government was withholding promised funds to that province.

Could the Leader of the Government in any way comment upon, or inform senators of the government's response to, these very serious allegations?

**Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations):** Honourable senators, Senator Fairbairn has repeated two or three or more of the allegations attributed to a former employee of the Department of Indian Affairs and Northern Development. I believe it would be appropriate for me to ask Mr. McKnight to let us have a prepared reply on that matter and address all of the questions raised by the honourable senator.

• (1410)

**Senator Fairbairn:** Honourable senators, as a supplementary, I would be grateful if such a reply could be forthcoming as fully and as quickly as possible. I was struck by that part of his speech yesterday in which the government leader underlined the importance of the constitutional negotiations with the aboriginal people and the risks inherent in any failure to reach agreement with them by the deadline next spring. The gentleman in question indicated that similar problems existed in other parts of the country. Would the Leader of the Government not agree that a quick addressing of these concerns would be useful to the government in terms of its own credibility in dealing with constitutional matters affecting the aboriginal people?

**Senator Murray:** Honourable senators, there are one or two things that I can tell the honourable senator. First, to the extent that there is any suggestion of wrongdoing in the comments attributed to the employee, the Minister of Indian Affairs and Northern Development has asked the RCMP to investigate the matter.

Second, I should explain that with regard to the auditors' report, to which she referred, the department responded in some detail to that report, and the auditors agreed that the department's response had been satisfactory.

Since that time, the minister has asked the Indian bands in Manitoba to indicate in what respect they may have found the department's response to be unsatisfactory, inadequate or inaccurate; and the minister has informed me that he has not received any reply to his request.

The minister and the department have furnished me with a good deal of other information about appropriations through the Department of Indian Affairs and Northern Development for programs in Manitoba and across the country. I could, I suppose, put them on the record, but I believe it would be better to ask the minister to examine the questions asked by the honourable senator and to bring in a coherent and organized reply.

[Senator Fairbairn.]

## PAROLE

### BOARD HEARING PROCEDURES

**Hon. Earl A. Hastings:** Honourable senators, my question to the Leader of the Government pertains to a decision by Mr. Justice Smith of the Ontario Supreme Court in response to an application for *habeas corpus* on behalf of an inmate in the Kingston Penitentiary. Mr. Justice Smith denied a writ of *habeas corpus* in this case but, at the same time, delivered a stinging indictment of the National Parole Board with respect to the hearing that took place concerning this inmate. The application was for detention, as required under the legislation passed this summer. Mr. Justice Smith said:

It must be remembered that this applicant, who has only grade four education, had only received notice that same morning. He acknowledged that he received some material. It is not apparent what was included in the material. He had also received, presumably the same day or at the most a day or so earlier, a copy of the new bills. In answer to a question as to whether he would waive his procedural rights, he asked: "What happens if I not do that?" He was told then that he would be held for four weeks for a regular hearing. He then said: "I'll waive my rights."

He was then asked if he waived his specific right to the information. He said: "Yes." The applicant was then cross-examined by the Board.

Mr. Justice Smith had something to say about that procedure, which seems to be a common practice in these hearings. He said:

—it is inherently unfair that a decision carrying such serious consequences for the inmate should be made so quickly and summarily without any opportunity for the inmate to prepare, to seek advice, to review the evidence and perhaps even to adduce evidence of a psychiatric nature or otherwise that could have had an influence on the ultimate decision. There was no real opportunity to cross-examine the medical witnesses.

He then ordered a new hearing, following which he said:

There ought to be a new regular hearing, however, at once on adequate notice in order to afford a reasonable opportunity to prepare, to seek assistance and to call evidence.

With respect to that hearing, Mr. Justice Smith said:

—I order a hearing in the interest of procedural fairness and the hearing to be in accordance with the rules in that respect which have been articulated many times by the Courts.

My question to the Leader of the Government in the Senate is: Would he consult with his colleague, the Solicitor General of Canada, and instruct the Parole Board to conduct their hearings in accordance with the wishes and directions of Mr. Justice Smith of the Supreme Court of Ontario, permitting the inmate adequate time to prepare for these hearings, to produce