

Security

justice in the provinces. Logically it seemed a bit irregular, I suggest, for parliament to have a statutory police act in these circumstances, but years ago it did just that when it enacted the Royal Canadian Mounted Police Act, which provides authority for members of the RCMP to be appointed peace officers in every part of Canada, thereby allowing unlimited jurisdiction, which again provides the provinces with a good constitutional argument.

It is now very apparent that this is being interpreted as a licence for the RCMP independently to enforce laws which may be the sole enforcement responsibility of the provinces. It is not difficult under the circumstances to envisage a growing concern, police rivalry, and federal-provincial conflicts. In fact we seem to be in precisely that kind of scenario at the present time.

Recently the Quebec Minister of Justice stated in the national assembly that the RCMP was invading the provincial field in the administration of justice. He charged that this behaviour was unacceptable, and demanded that the force report to provincial authority. In Ontario we find the RCMP under similar circumstances, while in Alberta, which is a contract province, there is a clash between the attorney general, the RCMP, and the Department of National Revenue.

Who is responsible for these dilemmas? Is it the RCMP? I suggest that it cannot be, and that over the years parliament has been derelict in allowing this kind of situation which is now surfacing at a very inopportune time to develop.

Let us remember that in 1871 there was an addition made to the BNA Act providing parliament with the power to administer peace, order and good government in any territory not for the time being included in any province. In 1873 the Northwest Mounted Police, now the RCMP, was established, with its headquarters in Regina. The parliamentary authority to so administer was obviously the authority to form a police force.

As the provinces came into being and the area of the territories was accordingly reduced, parliament could no longer administer peace and order within these new boundaries. It follows that the Northwest Mounted Police similarly lost its territorial jurisdiction and, facing some pressure, the force moved its headquarters to Ottawa, simultaneously changing its name to the Royal Canadian Mounted Police. One of its functions was to assist certain federal departments in the enforcement of their governing federal statutes, notably the customs and excise acts. Obviously a decision was made that in order to enforce these statutes the executive powers of a peace officer were required, hence the provisions in the RCMP Act. This is the crux of the federal-provincial conflicts which are now surfacing.

In those provinces where the RCMP is on contract to enforce laws on behalf of the provinces, for all intents and purposes that force is the provincial police force, following in the footsteps of the original provincial forces which had been appointed under the police acts of the individual provinces. In this role those members of the RCMP engaged under these contracts should rightly be qualified under the relevant police acts of the provinces for the duration of the contracts.

[Mr. MacKay.]

Those federal statutes outside the meaning of the administration of justice and enforced by the RCMP are another matter. The appointment of the RCMP for such enforcement duties should be by way of the individual statute, and any powers required limited to the provisions of the act; all operating costs being paid out of federal funds, which again would go a long way to assuaging the problems in Quebec.

I note that the presidents of Bell Telephone Company and the Canadian Chamber of Commerce have both recently commented, and with apparent alarm, on the invasion by the present federal government into the exclusive affairs of the provinces. I suggest that this situation applies equally to the federal police force, and the prescription for this is to amend the RCMP Act and other specific statutes to produce the cure for the jurisdictional disease which is causing problems in the administration of justice in this country.

By modifying the course now being undertaken by the RCMP a partial vacuum will be created. This, however, could readily be filled, in my submission, by giving that force a prime function—and I underline that prime function—in the criminal intelligence field against organized crime and a more clearly defined security and intelligence capability.

I sense that the Solicitor General himself is far from pleased with the efforts in this field and does not fail to make mention of police rivalry. In this sense I believe the term "rivalry" should be interpreted as jurisdictional resentment, and that can be eliminated only by jurisdictional corrections.

I would now like to turn to another matter, which I consider perhaps of most importance. I refer to the security service. In doing so I am prepared to suggest some changes, but as a preliminary I would like to point out that parliament has been very remiss in failing to take any positive interest in this specialized field. This obvious lack is no less than a sin of omission. It was the RCMP, acting on its own initiative, which first became interested in certain political threats against Canada, and over the years—and continuing largely on its own initiative—it has increased and expanded its function, but for want of direction produced its own ground rules.

The function of the security service has been accepted as a police role, which in turn means that it is an enforcement function. Acting under this impression we are once again confronted with jurisdictional problems from which there is no escape. Or is there? I quote from the Mackenzie Royal Commission Report on Security of 1969 as follows:

Defence against threats to security is a duty and responsibility of a state comparable in meaning and relevance with defence against armed attack and insurrection.

Enforcement actually is only a by-product of the security role, and a very minor one at that. Further, the offences become, within the meaning of the administration of justice, a provincial responsibility. The police in the provinces, I am certain, are quite capable of providing enforcement, but only when they are given information.

Of fundamental importance is the following quote from the Mackenzie royal commission when reporting on the RCMP:

There is, however, no explicit statutory authority for the security role.