

that there was not deemed to be sufficient grounds for prosecution, but I can tell the Hon. Member that there was evidence before the Attorney General at that time that in fact Col. Herrmann had been interviewed and that that evidence was available to the Attorney General.

**Mr. Speyer:** Madam Speaker, there was no evidence from a Canadian source. It was all from the FBI.

#### INTERROGATION OF KGB COLONEL

**Mr. Chris Speyer (Cambridge):** Madam Speaker, I would ask the Minister whether the RCMP requested that the Department of Justice attend upon Herrmann for the purposes of getting a sworn statement that would enable the Department to undertake a prosecution.

**Hon. Mark MacGuigan (Minister of Justice and Attorney General of Canada):** Madam Speaker, the RCMP had interviewed Col. Herrmann. The text of that interview was available to the Attorney General and it had been ascertained that he could be made available for trial if his evidence were needed.

#### INTERVIEW CONDUCTED BY RCMP

**Mr. Chris Speyer (Cambridge):** Madam Speaker, I will put my question to the Solicitor General. In an article by Neil Macdonald in this morning's *Citizen* it is stated that at no time did Canada ever debrief the double agent who was Herrmann. I will quote from the article, which I am sure the Solicitor General has read, as follows:

It may well be that we didn't get the full story because no one from Canada debriefed Herrmann from a Canadian perspective. We had an outline of what he would likely say, but that was provided by the Americans. He was debriefed from an American perspective.

I find it incomprehensible that Herrmann was not debriefed by the RCMP. Is the story accurate?

**Hon. Bob Kaplan (Solicitor General of Canada):** Madam Speaker, I can assure the Hon. Member that in fact members of the RCMP went to New York, interviewed Herrmann, and prepared the transcript of the interview, which was shown to the Minister of Justice to assist him in making his decision. As a matter of fact, the fact of that interview having taken place was revealed by the FBI on the date that Herrmann was made available in Washington to be interviewed in public.

#### REASON FOR NOT LAYING CHARGES AGAINST PROFESSOR

**Hon. Erik Nielsen (Yukon):** Madam Speaker, the Minister of Justice knows, or should know, that the voluntary nature of a confession by an accused person is normally decided by a judge. I would assume that the Solicitor General would also be aware of that doctrine of the law of evidence, and that all that is necessary in order to lay charges is a prima facie case, and not evidence sufficient to support a prosecution. Both Ministers seem to be hiding behind the doctrine of inducement

#### Oral Questions

which is only one element which goes toward determining whether or not a statement by an accused person is voluntary.

It would seem that the decision here was taken by the Government acting as a judge. Why did the Solicitor General or the Minister of Justice not allow a judge to make that decision, rather than usurping the function of the court itself? Why did they not lay charges and let a judge make that decision?

● (1420)

**Hon. Mark MacGuigan (Minister of Justice):** Madam Speaker, the only time in which the matter was before the Attorney General was in the spring of 1980. He made a decision on April 25 that there was not sufficient evidence to lay before a court. No part of that concern had to do with what my hon. friend states. It had to do with the insufficiency of the evidence that was available at that time.

#### DECISION ON ADMISSIBILITY OF EVIDENCE

**Hon. Erik Nielsen (Yukon):** Madam Speaker, how does that square, then, with the statement of the Minister of Justice that that conclusion was reached because the judgment was made that, after having shown the telex to Hambleton, that constituted an inducement which would bar the admissibility of the subsequent statement of the accused, Hambleton, a question normally decided by a judge and not by an official, or by a Minister or anyone in the Government? Why was that question as to whether or not it constituted an inducement only one fact going toward the voluntary nature of a confession which would allow its admission in evidence? Why was that decision made by Ministers of the Crown, rather than by a court of law?

**Hon. Mark MacGuigan (Minister of Justice):** Madam Speaker, my hon. friend is again confused, I have to tell him, as to the facts. All the facts that he is talking about occurred after the decision by the Attorney General as to whether or not to lay a prosecution.

#### LOCALE OF TRIAL

**Hon. Elmer M. MacKay (Central Nova):** Madam Speaker, my supplementary question is directed to the Minister of Justice. I want to ask him why we could not have had the locale of the Hambleton trial here in Canada on the basis of NATO secrets being compromised. Could we not have imported the evidence, as well as exported it to Britain? Then we would not have seen the spectacle of having to have Britain do the job for us, to the humiliation of our Security Service.

**Hon. Mark MacGuigan (Minister of Justice):** Madam Speaker, the only point at which the matter was before the Attorney General for consideration as to whether or not to lay a prosecution was in April, 1980. I have already made it clear that there was no evidence before the Attorney General at that time of the transmission of NATO secrets, but I have also