

Ministerial Responsibility

could not have become aware. It is equally clear that Ministers have defended themselves by blaming their officials and firing them. And it is also true that the House does not censure the Minister who can show that the delinquency was against his express instructions, or that he could not physically have known of it—provided he makes it clear, by speech or action, that the offender has been dealt with and that therefore the delinquency is unlikely to recur.

[Translation]

And on page 381, he gives numerous examples of the same situation. Obviously, on a tendency . . .

[English]

Mr. Baker (Grenville-Carleton): Mr. Speaker, perhaps the hon. gentleman would allow a question. Does he intend to deal in the course of his speech with the position of the member of the public service in Canada who has been named in the House of Commons by his minister and what remedies or what avenues or what redress for at least fair a hearing that a public servant is offered today? Does the hon. member intend to deal with that point?

[Translation]

Mr. De Bané: The hon. member has most certainly raised a very interesting point and if time permits, Mr. Speaker, I would be quite willing to discuss that.

We can say that generally there is a tendency to assume that, in politics, politicians are concerned with decision-making while civil servants deal with implementation. But I think that this distinction which was certainly worthwhile years ago is less and less appropriate nowadays. The best example I can think of is a conference held in Quebec City on June 2, 1976—barely three weeks ago—by professor Kenneth Kernaghan of Brock University entitled: Politics, policy and public servants: political neutrality revisited.

It is stated on page 7 of his document about the distinction we are trying to draw between politics and administration:

[English]

During the 1930's, writers on public administration who recognized the significant and growing political role of the bureaucracy lived uncomfortably with the text-book dichotomy between politics and administration. The dichotomy came under increasing attack during the war years as many scholars gained practical administrative experience in government. Shortly after the war, a number of political scientists launched a devastating assault on the notion that politics and administration were or could be separated. Among this group of post-war authors, Paul Appleby stands out for his defence of the proposition that 'public administration is policy making . . . Public administration is one of a number of basic political processes.' In less celebrated and more broadly focused works than those written by American authors, British and Canadian writers demonstrated during this same period a growing recognition of the blurring of the traditional constitutional line between the politician and the administrator in the parliamentary system of government.

[Translation]

And on page 8, he adds . . .

[English]

Since the political role of public servants is attributed primarily to their contribution to policy development, much attention in the literature has focused on the intermingling of policy and administration. The conventional view that a clear division may be made between policy and administration has always been a fiction but has become increasingly untenable with the continuing growth of government activities and of administrative power.

[Translation]

And in my opinion this fiction is becoming even more obvious, if I may say so, when one sees the momentum

[Mr. De Bané.]

gaining process of government decentralization where more head offices and work units of the civil service and Crown agencies as well as government institutions are distributed across the country to allow people closer contact with the administration. In such cases, how can one argue that the ministerial responsibility must be borne by the minister for the least little action made within the department by one of his agents?

In the past, certain distinctions were made concerning the carrying out of actions that I would call normal, executive and administrative, where the ministerial responsibility is quite beyond involvement. The classical example is obviously that of a mailman who steals a letter he should be delivering. In such a case, nobody thinks of putting the responsibility on the minister who holds that portfolio.

But, as Professor Kernaghan said, where does the distinction lie when the administration has so expanded and become so complex that neither the minister nor his deputy nor even the assistant deputy minister can be aware of all important decisions that are taken within their own department? The best example is control by parliamentarians since, according to the current theory, hon. members not only pass estimates but exercise control over expenditures as well.

More and more, and this has been the case for several decades, no one is fooled by this so-called control of parliamentarians over public expenditures. When one considers that 264 parliamentarians must control expenditures of billions of dollars made by hundreds of federal agencies and institutions, by hundreds of thousands of public servants, one may think that this control is also becoming ever more fictitious.

And I think we should make a case for an evolving theory that would be summed up in the following way: ministers are responsible for the development of their department's policy, they are collectively tied by decisions made by one of their colleagues in the cabinet when it comes to the matter of management, when public servants may unknowingly fail to exercise judgment or take action without their minister's knowledge. Under the latter aspect, namely taking decisions that emanate from policies, I suggest the theory rapidly grows into fiction which is far removed from reality. Where is a minister's responsibility when, for instance, to refer to a conventional example, an inmate is released as a result of a collective decision by various people?

● (2150)

Let us recall the case of notary Geoffroy who had been convicted of murder and who had obtained from public servants the authorization to leave to get married. It was a total lack of judgment on the part of the officials who made that decision and according to the traditional doctrine, despite the fact that the minister had not taken part in the decision, he had to assume the responsibility for it. I believe, as Kenneth Galbraith would say, that ideas are conservative, but that facts are always there to demonstrate their absurdity and to contradict them at one time or another.

Mr. Deputy Speaker: Order, please. It being 9.45, it is my duty, pursuant to the provisions of section 10 of Standing Order 58, to interrupt the proceedings and put forthwith