

Prairie Farm Assistance Act

the proceedings and who is responsible for the administration of justice in that province. It is a very serious charge and allegation that the hon. member is putting forward.

Mr. Hamilton (Qu'Appelle-Moose Mountain): It is indeed.

Mr. Lee: Mr. Speaker, the motion put before us by the hon. member for Red Deer is one requiring extremely careful consideration. I say that in view of the fact that we are involving ourselves in the matter when, as I have said, it is the attorney general of Saskatchewan who is responsible for the administration of justice in that province. Indeed the motion must be weighed very carefully in terms of an area which has always been highly productive of controversy. I refer, of course, to the area of provincial as opposed to federal jurisdiction.

During the time allotted I shall endeavour to touch upon those particular aspects of the problem to which this motion would seem to relate. These, I believe, lie in the contractual responsibilities of the Royal Canadian Mounted Police to provide provincial police services to certain provinces; secondly, in the traditional responsibility of provinces for the administration of criminal justice; and thirdly, in the effective delivery of police services.

Effectually, a paramount aspect of the question to be resolved would seem to be whether or not this House may appropriately order that there be tabled the contents of a file or files which are under the control and subject to the direction of the attorney general of a province. It is granted that the investigation in question was carried out by the Royal Canadian Mounted Police in respect of a federal statute, but both the investigation and subsequent judicial proceedings were made under the jurisdiction of the attorney general of the province of Saskatchewan. Under such circumstances we must ask ourselves this critical question: Would the House of Commons be justified in ordering case files clearly under a provincial jurisdiction to be produced here?

As I said, the investigation in this connection was with respect to a federal statute but the alleged offence was criminal in nature and resulted in fact in a charge of fraud being laid under section 338(1) of the Criminal Code of Canada. Responsibility for prosecution was, therefore, clearly that of the attorney general of Saskatchewan, not that of the Solicitor General (Mr. Fox).

Let us for the moment examine the responsibility of the RCMP in such instances. The contract under which police services are provided by the force to a province by virtue of the Royal Canadian Mounted Police Act reads in fact:

1. Canada shall, for the purposes of this agreement and subject to the terms herein, provide and maintain provincial police services within the province during the term of this agreement.

2. The internal management of the Provincial Police Services, including the administration and application of professional police procedures, shall remain under the control of Canada.

From this we see that only the internal management of the services remains under federal control. Obviously, this does not include the operation of the police service and operations

[Mr. Lee.]

include the investigative processes. These processes in turn include investigative files and materials. The maintenance of these files is an administrative matter, but use of the contents of the files, in my view, must be considered as operational.

Examining the federal-provincial contract for police services further, we find that:

1. The Commanding Officer of the Provincial Police Services shall for the purposes of this agreement act under the direction of the Attorney General in the administration of justice in the province.

2. Nothing in this agreement shall be interpreted as limiting in any way the powers of the Attorney General, relating to the administration of justice within the province.

By these terms, there can be no doubt that the RCMP in the administration of justice in a contracting province act as agents of the attorney general of that province.

Pertaining to case files and other relevant data, may I quote further from the contracts which are entered into between the two levels of government:

3. Any information

(a) in possession of the Royal Canadian Mounted Police, and

(b) which affects the administration of justice in the Province

shall be provided to the Attorney General in a manner and form to be agreed upon by the Commanding Officer and the Attorney General.

The services of the RCMP to the contracting provinces have been provided for many years, in Saskatchewan since 1905 in fact, and continue to be provided under these or similar terms. To the best of my knowledge, these terms have heretofore always been scrupulously adhered to by the contracting parties. Would we then, by asking for production of documents rightfully under control of a provincial authority, be contributing to a breach of contract—in the process demeaning, it seems to me, the traditional bond of trust which has historically existed between the force and the provinces it has so faithfully served?

This, in effect, is exactly what the hon. members for Red Deer and Qu'Appelle-Moose Mountain are asking. I seriously put to them whether they have considered the full consequences of what they are requesting. I am fully confident that if the hon. members were in full grasp of all the facts, they would not make such a request. We have had excellent relations with the provinces and surely we must continue to ensure that we do not disrupt this state of affairs.

In examining the motion before us, we must be truly conscious of the irreparable harm that could result from what may well be interpreted in some quarters as encroachment upon a subject which, under section 92 of the British North America Act, has traditionally been exclusive to provincial legislation:

In each province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subject next herein-after enumerated; that is to say,

and referring to our particular concern here today:

—the Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.

The matter in question was investigated and prosecuted under the jurisdiction of the attorney general of the province of