

Honourable senators, those of you who have read it know that *Above the Law* is an unabashed testimonial of one or two former senior officers of the RCMP who are now in private practice or retirement but who actively collaborated with the author. In essence, this book catalogues a list of high profile cases investigated by these officers. In most of those cases, no charges were laid. In other cases where charges were actually laid, charges were subsequently reduced or judges and juries found the defendants innocent. The book's author and protagonist attributes this to political interference and political corruption at the very highest levels.

Honourable senators, I should mention at the outset that my name is mentioned in the book. According to the reference, I once met for lunch with one of the persons who, the book alleges, was the object of suspicion by the RCMP. I have no recollection of the lunch nor of the person I am supposed to have lunched with, but, be that as it may, the reference to me was innocuous. Unless the book alleges guilt by association, I do not take it that I, at least, have been in any way slurred by the book.

Honourable senators, the author purports to raise two fundamental and very serious issues: First, he calls into question the integrity of the Canadian justice system and the manner in which this country is being policed; and, second, he alleges that Canada has a two-tiered justice system where the treatment accorded to the political and business elite is significantly different from that accorded to the average Canadian. These are serious allegations that merit serious attention. The problem is that the book provides no compelling evidence other than inference, innuendo or speculation that either allegation is true.

I took it upon myself to have one of my people contact bureaucrats who occupied, or recently occupied, senior positions in the police and security establishment in the Solicitor General's department, the Privy Council Office and the Department of Justice. These are people who sit or sat at the nexus between the political level and the RCMP, people who attended many meetings between ministers, their staffs and representatives of the RCMP at the highest level. Not one single person supported the book's allegations about political interference in RCMP investigations; not one was privy to or even suspected such interference, and not one had been contacted by the author of the book.

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A point must be made here, however, which may explain at least in part Mr. Palango's conclusions. The McDonald commission, as many here know, and as the book recounts, was critical of the RCMP, particularly the security service, for certain of its activities. The commission recommended that the security service be transferred to a civilian security intelligence agency. That was done, and we now know it as CSIS. It also recommended that the RCMP be more accountable to the government, and mechanisms to enhance accountability were put in place.

That quest for increased accountability resulted in more meetings with ministers and their staffs and more information going from the Royal Canadian Mounted Police to ministers and their offices. However, there is no evidence I know of that these meetings or this information was case specific, or resulted in political interference by ministers.

[ Senator Kelly ]

However, this enhanced accountability could be misinterpreted by the uninformed observer and by some members of the RCMP as political interference. We must bear in mind that one of the foundations of our parliamentary system is collective and individual ministerial responsibility to Parliament. That ultimate responsibility of ministers extends to the RCMP; and the RCMP must account to ministers and, through them, to Parliament. Otherwise our system breaks down.

We must also distinguish between accountability on the one hand and direction and control on the other. Accountability from the minister's perspective is passive. He or she receives information that allows that minister to exercise his or her constitutional responsibility to Parliament. It is a huge leap in logic to assume that accountability leads inexorably to inappropriate political interference, to control or direction. Mr. Palango and the book's protagonists appear to have made that unfortunate and unwarranted leap of logic.

Honourable senators, I am not here to give a book report. I want to talk in a thematic way about several questions or issues raised by this book which disturb me deeply. The first is the increasing tendency of those in public service to publish kiss-and-tell books upon their retirement from public office. Such books, no matter who is the author, are suspect from the beginning because they provide a very one-sided perspective, a perspective that cannot help but be tinted by self-interest.

There is always the danger that the protagonist will claim, in the eyes of posterity, a status or recognition that was denied in real life. It is difficult for bitterness or past slights and failures not to seep through. It is difficult not to try to rewrite history in one's own image. It is particularly dangerous when police officers become involved in such efforts. Police officers, by virtue of their position, have access to an enormous amount of information from a range of sources. Some of this information may be accurate; some will be of questionable accuracy, at best. Most is not, and should not be, in the public domain.

It is fundamentally wrong, therefore, for such information to find its way into the public domain through a retired policeman's public musings, accompanied by that policeman's interpretation of the meaning or veracity of that information. Policemen occupy a position of trust, a trust that survives, or should survive, their retirement from the force. That trust should include the confidentiality of information obtained through a police investigation that has hitherto not been released and has not had the benefit of objective interpretation, cross-examination or the presumption of innocence.

Upon joining the RCMP, regular and civilian members swear three oaths: an oath of allegiance to the Crown, an oath of office and an oath of secrecy. I am told that these oaths, particularly the oath of secrecy, have not changed in a material way for over 50 years. The oath of secrecy reads as follows:

I do solemnly swear that I will not disclose or make known to any person not legally entitled thereto any —

— and I emphasize “any” —

— knowledge or information obtained by me in the course of my employment with the RCMP. So help me God.