

*RCMP Act*

Second, there must be a complete investigation made without any possibility of extraneous considerations. The general counsel, Mr. Borovoy, pointed out that the commission would not be in a position to perceive any defects or gaps in the material presented to it or in the manner in which the investigation was carried out. As he said:

—unless you are talking about glaring inadequacies in the investigation, it would virtually take clairvoyance to spot defects in the investigation from reading an investigation report. It will not be good enough and the commission is virtually dependent on the investigation that is done by the R.C.M.P.

The third major area of concern with respect to an internal investigation of complaints is that such an internal investigation is vulnerable to the suspicion that there may be internal or inter-departmental jealousies or that the considerations of public relations may prevail over the interests of objective fact-finding.

That is a well founded concern, and another reason for rejecting the proposal in this Bill that there should be internal investigation. Rather than a form of internal investigation, the Canadian Civil Liberties Association recommended that the Public Complaints Commission should have an investigative capacity similar to that employed by the metropolitan Toronto police complaints commissioner who can independently inquire into and investigate the allegations of a complaint without relying upon someone within the police force to investigate a complaint about the police force. In addition, that investigator can have full access to all police records and premises. He can appoint persons to assist him in his investigations and can apply to a Justice of the Peace for a search warrant to assist in the investigations.

There are similar powers and the Manitoba legislation, to which I referred earlier.

The Association of 17 Divisions made a representation as well with respect to the process of investigation of public complaints. It suggested that the rules which govern such investigation should be enumerated in statutory form. I am not sure that they have to be enumerated in statutory form, but they should be clearly set out in regulations. Those regulations should be subject to review by the Standing Joint Committee on Regulations and Other Statutory Instruments.

I was very pleased yesterday to note that the Minister had given a commitment that all regulations and all regulation-making powers in this Bill will ensure that there is a review by that important standing committee, and that the so-called magic formula will be used to remove any doubt about the possibility for review by that committee on regulations which are promulgated pursuant to this Act.

The first area of concern, Mr. Speaker, with respect to the public complaints process, is the question of internal investigation, but there is a second very fundamental area of concern, namely, who makes the final decision. After there has been an investigation, who will make the decision if it is found that a complaint is well founded? Who will make the decision as to whether or not there will be any form of disciplinary action or a change in policy and procedure? In the Bill, as it is presently worded, it is the Commissioner of the RCMP himself who

makes that decision. I suggest that that process undermines the public confidence that justice is being done and, more important, that justice is seen to be done. I do not think we can overlook the history in this area as well.

The report of the McDonald Commission documented not only clear instances of individual abuses, illegality, breach of the law, but it went so far as to talk about institutional contempt for the law. Yet, despite the documentation of this wrongdoing, of this illegality, to this day there has not been a single disciplinary action taken against any member of the RCMP who was involved in that wrongdoing or illegality.

This nation is founded on the principle of the rule of law. That principle requires all of us, be we Members of Parliament, police, or ordinary Canadians, to be subject to the same law. I suggest that the failure on the part of the Attorney General of Canada (Mr. Crosbie) to prosecute where there was evidence of wrongdoing, and in this context the failure of the Commissioner of the RCMP to take disciplinary action where such action was clearly warranted, undermines that fundamental respect for the rule of law which is so important in Canada.

The McDonald Commission documented a whole series of wrongdoings, whether illegal mail-opening, illegal access to government records, income tax files and other government records, illegal access to medical records, kidnappings, post office and barn burning. The list went on and on. What this Bill would condone is a process whereby if individuals who were wronged by actions of the RCMP, similar to those unfortunate reprehensible actions, made complaints, went to the public complaints Commissioner tomorrow and that commission reviewed the evidence, came to the conclusion, as did the McDonald commission that the complaints were well founded, the commission would have no power to do anything about it. What the commission would then do would be to turn the matter over to the Commissioner of the RCMP. They would say, "Here you are, Mr. Commissioner. We believe the law was broken. We believe there was misconduct and we believe there should be discipline". The Commissioner of the RCMP can say, "Thank you very much, but forget it. I do not intend to implement your recommendation". That is precisely what this Commissioner did when he received evidence of wrongdoing previously. He was asked to review evidence for the possibility of disciplinary action. He reviewed the evidence and said, "Forget it. There will be no disciplinary action whatsoever".

I know constituents of all Members of Parliament, including our distinguished Speaker, share the concerns that the rule of law must be obeyed. I hope he will share the concern that this Bill undermines this fundamental principle. As my colleague, the Hon. Member for Winnipeg North (Mr. Orlikow) has pointed out, in some cases those who were involved in this wrongdoing, far from being disciplined, were promoted. Once again, that is unacceptable.

I would strongly urge the Government to reconsider this provision and to provide, as the Attorney General for Saskatchewan, the Canadian Civil Liberties Association and