



Bulletin

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NEW PERSPECTIVES OF THE JUDICIAL FUNCTION

Lawyers don't necessarily make the best judges, Minister of Justice Otto Lang told judges meeting recently in Halifax, Nova Scotia for the 1972 Canadian Judicial Seminar. He suggested ways in which judges might be trained for their function, in preference to the traditional practice of elevating lawyers to the bench by "a mystical laying-on of hands".

Mr. Lang, who is responsible for appointing judges to federal courts, suggested other changes that might be considered by the Canadian judiciary in reassessing its values and objects, and in drawing up procedures that would withstand the critical scrutiny of society and be more satisfactory than the existing, already overburdened judicial system which had been designed before the turn of the century.

The week-long seminar — twice as large as it had been last year and with Mr. Lang's promise of an increased budget for 1973 — is now accepted as a

function of the Canadian Judicial Council created as a mechanism to bring about analysis and change. It was designed to provide judges with an opportunity to discuss problems associated with the administration of justice, and to consider and propose legislative changes.

Mr. Lang stated that, if close public scrutiny found the system wanting, its social utility would be seriously undermined. He reminded his audience that wider application of legal aid, the increasing number of laws and the additional assumption of responsibility by the judiciary as the result of self-analysis, necessitated more satisfactory mechanisms.

GUIDE-LINES FOR CHANGE

He suggested that the following criteria be used in the analysis, against which to measure suggested changes:

(1) *The courts must be and appear to be impartial, showing neither fear nor favour.* In considering racial, ethnic and religious groups, Mr. Lang said that justice must not only be done but be seen to be done. He suggested that joint seminars would help by increasing the communication and understanding between the judiciary and minorities and their sensitivity to each other. This process, he said, was already taking place owing to the highly successful federal-provincial "Native Court Worker" system in Alberta, and he announced that, as a result of this, the Department of Justice intended to finance several similar pilot projects. In the Alberta system, Indian and métis court workers provide the services of a counsellor and interpreter for native defendants.

(2) *The courts must be accessible to all having a legitimate grievance falling within the court's jurisdiction.* Mr. Lang charged that equality did not exist when a large percentage of the defendants appearing in Canadian criminal courts did not have counsel because it was too costly. He said that the Federal Government's first step to correct this was a jointly-funded comprehensive legal aid scheme for

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the Northwest Territories, begun in August 1971, and that, shortly, the Federal Government would take the next major step by approaching the provinces to set up such a scheme for all Canadians, as promised in the Speech from the Throne in February.

(3) *The courts must strive to avoid injustice caused by delay.* "In many cases, delay occasions serious hardship upon those whose fame, fortune or freedom depends upon judicial decision," Mr. Lang said. He mentioned the Bail Reform Act, passed earlier this year, as one method of alleviating this injustice, but asked the judiciary to identify other forms of delay and propose solutions.

He said that the traditional solution of appointing more judges was not sufficient in itself and suggested that special tribunals might more cheaply and quickly deal with cases where matters of fact and not law were the issue, such as divorce and automobile-collision claims. At the same time, judges might specialize, each dealing with highly technical questions of law in a narrow field such as bankruptcy or negligence and commercial matters. Research staffs might help them to gather and analyze material quickly so that they would not need to choose between injustice through delay or incomplete research.

(4) *The courts must decide the issues before them in accordance with the law.* While not questioning the quality of the judiciary, Mr. Lang said that he questioned whether "the present system, whereby you are a lawyer one day and a judge the next", was reasonable. "In the great majority of cases," he declared, "a judge's pre-appointment legal training does not qualify him to perform the wide range of duties which are imposed upon him by the system."

The Minister noted that the training of new appointees, apprenticeship or in-service training, regular sabbaticals, refresher courses, training in both spoken and written communication would all serve to improve the system. However, a more fundamental change to specialized judges would mean that "we may have to examine the division of labour and jurisdiction of our courts", said Mr. Lang. "In a modern federation we should not let every provincial boundary interfere with our realization of a more efficient administration of justice if a more effective specialization can come about through several provinces acting together."

(5) *The courts must express their judgments clearly and succinctly.* He observed that in many cases communicative skills necessary for a judge have not been taught in law school, nor learned in practice. He suggested that it might be an improvement to lay down guide-lines for the writing of judgments. Standardization may be detrimental to the effectiveness of the free-form common law style "but it should be noted in France", he said, that "a standard form of judgment is used, which expresses what the court found to be the facts, what it found to be the governing legal principles, and what its adjudication was as between the parties".

EMBASSY IN MANILA

The Secretary of State for External Affairs, Mr. Mitchell Sharp, announced recently in Vancouver that it had been agreed to raise the level of Canadian representation in the Philippines from a consulate-general to an embassy. Mr. F.B. Clark, the Consul General in Manila, has been designated Chargé d'Affaires pending the appointment of an ambassador.

This step is intended to reflect better Canada's relations with the Philippines, which have grown considerably, particularly in the commercial sphere, since the establishment of the Consulate-General in 1950. The islands are currently Canada's fourth-largest export market in the region, after Japan, Australia and China. They have also become a source of substantial immigration to Canada, with now over 3,000 persons annually.

The decision to raise the level of Canadian representation in the Philippines follows closely the Government's announced intention in *Foreign Policy for Canadians*, the 1970 foreign policy review, to expand Canada's presence in the Pacific in view of the expectation of rapidly-increasing commercial and other relations with Pacific countries over the next few years. The step was specifically recommended in the March 1972 report of the Standing Committee on Foreign Affairs on Canadian relations with the countries of the Pacific region.

The Philippines opened an Embassy in Ottawa in March 1971.

CANADIAN TAILS FOR SCOTTISH PLANES

Northwest Industries Limited, a wholly-owned subsidiary of CAE Industries Ltd., Montreal, has been awarded a \$500,000-contract to manufacture the tail-sections of the *Jetstream* aircraft for Scottish Aviation Limited of Prestwick, Scotland.

The initial order, placed in Canada following a Royal Air Force order for 26 *Jetstream* aircraft from Scottish Aviation, is for 11 complete empennages, including vertical and horizontal tailplanes, control surfaces and dorsal assemblies.

Deliveries will begin early in 1973, and "follow-on" orders are anticipated, according to NWI president E.L. Bunnell. NWI is the sole source for the tail-assemblies as it already has on hand the hard-tooling required to manufacture the components.

The company originally began building *Jetstream* tail sections in 1968. The financial collapse of the original manufacturer, Handley Page Ltd., in 1970, caused CAE to write off a loss of about \$2 million before taxes.

Revival of the aircraft program and the new order for tail sections will not assure recovery of the loss sustained in 1970, according to CAE president C. Douglas Reekie, but it will mean profitable new work for NWI.



Globe and Mail

NEW LIFE FOR OLD TUG

The Ned Hanlan, one of the last steam-operated Great Lakes tugs, was installed recently as a permanent exhibit in a berth near the Marine Museum of Upper Canada at Exhibition Park Toronto. Named for Edward Hanlan, one of Canada's international champion oarsmen from 1880 to 1884, who died in 1908, the old vessel had ferried Toronto Island winter passengers and freight from 1932 to 1965. David Macdonald Stewart of Montreal donated \$50,000 to refurbish the ship.

Dr. A.D. Tushingham, Chief Archaeologist at the Royal Ontario Museum and chairman of the Toronto Historical Board, which was responsible for the restoration work, was one of the speakers at the installation ceremony, while two of Hanlan's daughters launched his namesake on its new career with the traditional bottle of champagne.

Diesel-operated tugs have now replaced the old steamboats that once churned the waters of the Great Lakes.

U.S.S.R. FARM MACHINERY SHOW

Twelve Canadian firms manufacturing agricultural machinery will display their equipment at the International Selkhoztekhnik-72 exhibition in Moscow from September 6-20.

This exhibition is organized by the U.S.S.R. Chamber of Commerce and Industry, together with the U.S.S.R. Ministry of Tractor and Agricultural Machinery-Building and it is expected that 20 countries, including West Berlin, will take part.

Canada has never before participated on such a scale in the international exhibitions held in the Soviet Union. The Canadian pavilion and the open grounds in the Moscow Sokolniki Park, the traditional location for exhibitions, exceeds 14,800 square feet, and is one of the largest areas to be occupied by any of the participant countries.

Modern grain combine-harvesters, tractors, lorries, haystackers, soil-cultivating machines and agricultural instruments will be demonstrated in the Canadian pavilion and in the open air.

ANIMAL FEED HEALTH DANGER

The Canada Department of Agriculture is reviewing the implications of the recent United States order phasing out the hormone diethylstilbestrol (DES) in cattle finishing. DES is a synthetic hormone used for fattening cattle and sheep.

According to a news release issued in August by the U.S. Department of Health, Education and Welfare, use of the chemical in feeds is to be discontinued in the U.S.; the use of existing stocks will be permitted until January 1, 1973.

The U.S. order on DES resulted from a legal requirement that forbids the presence in foods of any substance that is capable of producing cancer, at any dose level, in any animal species.

Detection of minute amounts of DES residues in the livers of some beef cattle made action by the U.S. health authorities a matter of legal necessity. They explain that levels found in livers of animals were far lower than those used in tests, and that the action was not based on any known hazard to human health.

DES has been used in cattle and sheep feed nearly 20 years without a single known instance of human harm.

The Canadian Minister of Agriculture, Mr. H.A. Olson, stated that his Department was reviewing the situation. "We will take all necessary steps to safeguard the health of the Canadian public. At the same time, we will ensure that our products for export meet the requirements of our trading partners," the Minister said.

On three occasions the Health Protection Branch of the Food and Drug Directorate had convened a committee of non-governmental medical specialists to advise on the human health implications of the use of DES, and a final report was expected soon, said Mr. Olson.

"We will be taking a close look at the findings of this report," he continued, "and any action we may take in this situation will be to ensure above all that the Canadian public has wholesome food."

GIFT TO POSTAL MUSEUM

The Canada Post Office has received from Mr. Robert D. Johnson of Town of Mount Royal, Quebec, a substantial contribution towards its National Postal Museum, which is scheduled to open its doors by April 1974.

The gift consists of an extensive collection of Canadian mint and used stamps, with an estimated value of several thousand dollars. Mr. Johnson, who is in the book business in Montreal, expressed the desire to help the National Postal Museum after he learned of the Post Office's plans to establish it, as announced by Postmaster General Jean-Pierre Côté last autumn.

Although the Museum is still very much in the developing stage, many donations have already been received, including one from Quebec Premier Robert Bourassa, who donated several early documents from various post offices in that province. Other donations include: a specialized collection based on the 1958 Canadian 5-cent stamp issued to honour the Canadian press; the Canadian portion of the comprehensive philatelic library of the late Mr. J.R. Cooke of Thamesford, Ontario, consisting of well over 1,100 items, many of which are quite scarce and long out of print; an early Argentine collection, including specimens of early stamps and postal stationery; an exceptionally fine copy of the Queen Anne Act of 1710, the first official reference to a postal system for the British colonies; a hand-cancelling machine used in the post office in Marmora, Ontario, from 1920 to 1968; three extremely valuable books recording early Canadian Post Office history (*Canada - Report on the Post Office 1832-40*, *Report into the State of the Canadian Post Office 1840-1*, *Prince Edward Island: Post Office Laws and Regulations (1859)*); and a number of important historical documents, donated by the British General Post Office.

WAR ON THE MOSQUITO

A new chemical synthesized at the Agriculture Canada Research Institute in London, Ontario may help control the mosquitoes that are spreading western encephalitis or sleeping sickness in North America.

The compound is a copy of a chemical "attractant" called a "pheromone", which is produced by the mosquito itself. "Apparently the eggs are coated with this attractant as they are laid," said Dr. A.N. Starratt, an organic chemist at the Research Institute.

Scientists, who began looking for the pheromone because they knew that mosquitoes preferred to lay their eggs where eggs had already been laid, synthesized an active component that attracted mosquitoes in the same way as the natural pheromone.

The female mosquito seeks water containing the pheromone in which to lay her eggs. When Dr. C.E. Osgood, an entomologist with the Department of Agriculture Canada Belleville, Ontario, Research Institute, he found that the pheromone spread as a film on water, lowering its surface tension. When the pheromone was present in higher than natural concentrations, the water no longer supported the mosquitoes and they drowned while attempting to lay their eggs.

Dr. Osgood and Dr. J.J.R. McLintock of the Saskatoon, Saskatchewan Research Station will conduct field tests near Weyburn, Saskatchewan, where breeding-pools could be treated with high enough concentrations of the pheromone to attract female mosquitoes and drown them as they attempt to land. Another possibility is to attract them to pools which will dry up before the larvae can develop.

Considerable interest is expected in the field trials with this first insect-produced laying attractant since, if it shows promise, it could lead to a safe, effective and economical control program.



Assistant Deputy Postmaster General A.C. Boughner (left), looks at stamps held by J.E. Kraemer, Manager of the National Postal Museum, Mr. M. Lysack, Director of Accounting (centre), looks on, while Mr. Robert D. Johnson, the donor, of Montreal is on the right.

ARCTIC WATERS POLLUTION PREVENTION ACT

The problems of liability requirements that delayed the introduction of Canada's Arctic Waters Pollution Prevention Act having been overcome, the Act and its accompanying regulations were proclaimed on August 2.

The chief stumbling-block had been the desire of ship-owners and cargo-owners to obtain insurance to cover pollution liability, and the absence of such insurance owing to the fact that, before the Arctic Waters Pollution Prevention Act had been drafted, the need for this kind of coverage had not existed.

A way has now been found whereby the absolute liability that the Act places on ship-owners and cargo-owners for any pollution resulting from the passage of their ships through Arctic waters can be insured.

The new regulations, which specify the financial responsibility to be assumed by ship- and cargo-owners will, while clearly defining "absolute liability", recognize certain limited defences similar to those established in international conventions and those also set out in the pollution provisions of the Canada Shipping Act.

OIL SPILLS

The limits of liability will also conform with the international convention relating to pollution of the sea by oil. This has been done to enable Canada to take advantage of supplementary international funds

that will shortly be made available to cover the cost of pollution clean-up in excess of the insured limits, which at this time are set at a maximum of \$30 million.

The regulations will apply to all pollutants rather than to pollution by oil alone, although only oil-pollution is covered under present international liability requirements.

The regulations are designed to apply to shipping passing through Arctic waters. They do not, at this time, specify limitations regarding the size of ship or the amount of potential pollutant that may be carried. An intensive study of cargoes, destinations, and any pollutants currently being carried, is under way to determine whether such limitations should be imposed in the future. The promulgation of the Act and the regulations should not, therefore, be considered as an indication that the Government is prepared at this time to approve the passage of large oil tankers throughout Arctic waters.

With careful design, proper navigational aids and competent crews, movement of oil by tanker through Arctic waters may be possible in the future.

In addition to the liability and financial responsibility regulations applying to ships, similar regulations will be applied with respect to land-based operations that could pollute the seas round Canada's northern coasts and from activities other than normal shipping.

CENTRE OF ASIAN STUDIES

In Vancouver recently, the Secretary of State for External Affairs, Mr. Mitchell Sharp, announced that the Government of Canada would provide a grant to help defray the capital cost of establishing a Centre of East Asian Studies on the campus of the University of British Columbia. The Japan World Exposition Foundation has agreed to donate the Expo 70 Sanyo Pavilion to the Centre and the sum of \$700,000 for construction has been pledged by Japanese sources. Mr. Sharp said that the Canadian Government would be prepared to join with the government of British Columbia and with private donors in contributing to the capital cost. The federal contribution would match the contribution by British Columbia up to the amount of \$400,000.

By providing facilities for the study of East Asian affairs, languages and culture, Mr. Sharp noted, such a Centre would do much to strengthen and further good relations and, particularly, to promote trade and cultural exchanges between Canada and the "Pacific Rim" countries, especially Japan and China. He expressed his appreciation to the Japan World Exposition Foundation and the Federation of Economic Organization of Japan and of all the other contributors for their generosity and assistance in helping to establish this Centre.

CHINA AT MAN AND HIS WORLD

The People's Republic of China, represented for the first time at Man and His World, brings to its pavilion a unique blend of classical culture and contemporary craftsmanship.

One of the special aspects of this pavilion at Montreal's annual summer exhibition on St. Helen's Island, is that artists from all the provinces of China were aware that their work would be exhibited at Man and His World. Opinions are invited about the quality and style of the contributions and a guest book has been set aside in which visitors may make comments.

The ground floor of the Pavilion of China contains an entire section devoted to Chinese classical paintings since the fifteenth century Ming Dynasty. A huge work in needlepoint hangs in the centre of this display.

On the opposite side are 16 colour pictures, describing the scenes and points of interest of Peking, Shanghai, Yenan and Shao shan and one of the Great Wall of China.

Many of the classical paintings by such masters as Hsia Chang (1388-1470) and Hsu Wei (1521-1593) are done in the special Chinese style and bear the various seals of connoisseurs who have left their mark of authenticity on these works through the ages.

China's modern painters are said to have absorbed much of the deftness of the old masters, combining it with an appreciation of the energies of the cultural revolution. Their success may be judged in such works as "The Line is Through" by Luan Wan-chu and Wen Chung-sheng, and "Full of Go", by Liu Ping-liang and Chang Wen-tao.

The entire upstairs section of the pavilion is devoted to handicrafts. There are approximately 320 items, many renowned for their beauty and durability, such as an exquisite naturally coloured coral carving. Some of these took up to six months to complete.

There are examples of embroidery, wood-carving, feather work, shell-carving and printed fabrics, porcelain, pottery and ivory. There are carvings of Dr. Norman Bethune, the Canadian, who has become a folk hero for his work among the Chinese people and for his humanitarianism, and one needlepoint made in 1939.

In another area of the second floor pavilion is an ivory carving representing a cluster of 32 balls, each with a different design. This piece comes from Kwangtung Province and it is alleged that only five or six persons out of the entire population of China are proficient at this particular type of carving.

MARITAL STATUS, 1971

According to the 1971 census, the proportion of single persons in Canada's population decreased to 49.5 per cent in 1971 from 51.7 per cent in 1966. This was largely a result of a reduction in the very low age-groups, reflecting declining birth-rates in the 1960s.

In contrast, the married population increased to 45.3 per cent from 43.6 per cent as large numbers of children born during the period of high birth-rates immediately following the war reached marriageable age.

The most striking change was the 170.3 per cent increase in the divorced population - to 175,113 from 64,776. Increases of over 100 per cent occurred in every province, reflecting the new divorce legislation passed on July 2, 1968.

The widowed population showed a modest 8.5 per cent increase, to 944,022 from 870,297 - widows increasing in number by 11.6 per cent, or 78,246, but widowers decreasing by 2.3 per cent, or 4,521.

ACTORS' SURVEY

Over 12,000 actors and actresses in Canada are being asked to provide information on their training, employment opportunities and income, according to a recent announcement by the Canada Council. The study, which is being undertaken for the Council by the Department of Manpower and Immigration, is the first comprehensive survey of its kind in Canada.

The Council hopes to obtain a more accurate "profile" of Canadian performing artists and their employment circumstances. They are asked about their training, the opportunity they have to perform professionally, the income from their acting jobs and the amount of time they must spend at other jobs as a stop-gap or to supplement their incomes. Results of the study will help the Council to evaluate its present programs and to devise new policies of assistance for actors and actresses.

Names of performing artists were obtained through the Association of Canadian Radio and Television Artists (ACTRA), the Union des Artistes, the Canadian offices of Actors' Equity Association and the American Federation of Musicians, and from the major performing arts companies in Canada.

The Council expects to have the results of the study available in late autumn.

NATIONAL PARKS SCHOLARSHIPS

Nine Canadian postgraduate students have been awarded National Parks Service scholarships, worth \$2,000 each, Jean Chrétien, Minister of Indian Affairs and Northern Development, announced recently.

The scholarship program, which started in 1967, is designed to help train and develop personnel required to manage, interpret and plan Canada's growing national parks system.

The 28 national parks in Canada now cover more than 49,000 square miles from the Atlantic to the Pacific and from the Great Lakes to the Arctic.

NATIONALITY OF TEACHERS

Canadian citizens received 57 per cent of all 1971-72 teaching appointments to the full-time staffs of Canadian universities and colleges, compared to 55 per cent a year earlier.

Of the remaining 43 per cent, teachers from the United States accounted for less than half (20 per cent of the total) and teachers from other countries for 23 per cent. In 1970-71, U.S. teacher appointments represented 19.1 per cent of the total and those from other countries 25.9 per cent.

Some 9 per cent of 1971-72 new teachers were from Britain, 3 per cent from France, 2 per cent from Australia and New Zealand, 2 per cent from India and 7 per cent from other countries.

The number of new appointments decreased 6.2 per cent to 3,787 from 4,038 in 1970-71. All areas of the country shared in the decline. New faculty appointments in the Atlantic Provinces fell to 484 from 511, Quebec to an estimated 917 from 977, Ontario to 1,403 from 1,458 and the Western provinces to 983 from 1,092.

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