THE RCMP, THE GOVERNMENT, AND THE RULE OF LAW

AN OPEN LETTER TO THE PRIME MINISTER OF CANADA

on Wednesday, November 16, 1977 The Canadian Civil Liberties Association sent the following letter to Prime Minister Trudeau . . .

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Wednesday, November 16, 1977

The Right Honourable Pierre Elliot Trudeau
Prime Minister of Canada,
House of Commons,
Ottawa, Ontario.

Dear Mr. Prime Minister:

By themselves, the mounting revelations and allegations of RCMP law breaking would be bad enough. But the Government's response to them has made the situation substantially worse. Government spokesmen have expressed some dubious notions about the duty to obey the law and the nature of Ministerial responsibility. As a consequence, this country now faces a real crisis in public respect for the rule of law.

On the strength of some of the Government's statements, one might gather that the real problems in these scandals concern some defects in the law rather than the breaking of the law. Virtually every revelation has been accompanied by a statement from a Cabinet Minister regarding the alleged need for more police powers. In context, such statements are dangerous and out of place.

If it was ever thought that the police lacked the power to provide society with adequate protection, the Government's duty was to subject such views to the democratic processes of Parliamentary and public debate. But what is unacceptable is for the police to break the law and for the Government to appear to tolerate it. We regret that a number of Government statements have created just such an impression.

The transcript of your press conference following the relevation of the Parti Quebecois break-in and theft attributes to you the following statement.

> "What I am saying is that I am not prepared to condemn, you know, irremediably the people at the time who might have done an illegal act in order to save a city from being blown up. . . ."

While this is an intriguing statement of abstract ethics, it has no relevance to the impugned police conduct. Unfortunately, the mere introduction of such examples confuses the issues and legitimates the notion of police law breaking.

At the same press conference, you are reported to have discussed the periodic justification for "technical" breaches of the law.

> "Policemen break the law, sometimes, I suppose, when they drive 80 miles an hour in order to catch the guy who is escaping from a bank . . ."

In view of the fact that the triggering event for this discussion was the P.Q. break-in, we fail to see the relevance of the analogy concerning escaping bank robbers. In any event, the allegations then raised against the RCMP — burglary and theft — cannot be described in the same terms as traffic violations.

One of the instruments which parliamentary democracies have devised to ensure police compliance with the law is civilian control and Ministerial responsibility. On this matter, Government statements provide little reassurance. In response to questions in the House of Commons, you were quoted as saying that you do not want to know "all the secrets in this country that the RCMP knows." But why does the Canadian public have to choose between your knowing everything or virtually nothing that is relevant to RCMP law breaking? It is impossible to have civilian control unless the responsible Ministers have at least an adequate knowledge of what the police forces are doing.

In this connection, we note your further statement that you took "no particular precaution" to instruct the security forces that they should not break the law. For such purposes, you said they could be treated like "any other agency of government." That statement ignores the very nature of security forces. Security functions carry within them a built-in temptation to take shortcuts and use unorthodox methods. Regardless of the integrity of the incumbents at any given time, a security force simply cannot be treated like any other government agency. Special precautions are necessary to deal with the special propensities of their trade.

In addition to these disquieting statements, the Government now appears to be evading and avoiding questions of pressing necessity by referring them to the lengthy process of a Royal Commission. It is clear at this point that people in the service of the Canadian Government have engaged in a sizeable cover-up of illegal activity. While the evidence on the public record does not now warrant the identification of guilty parties, it is clear that the Government itself is no longer immune from suspicion. Whether the suspicion involves complicity at worst or negligence at best, the Government is functioning under a heavy cloud. The dissipation of that cloud cannot be postponed until the Royal Commission has concluded its lengthy deliberations.

When the McDonald Commission was first appointed, there were relatively few allegations on the public record. In view of all that has transpired since that time, the Royal Commission, by itself, can no longer be regarded as sufficient to deal with the problem. The suspicions surrounding the Government must be addressed with speed. Our society cannot allow public confidence in the rule of law to be suspended for long periods of time.

Nor would such delay be fair to the otherwise enviable reputation of the RCMP. Throughout its history, Canadians have felt pride in this institution and the service it has rendered. It would be unfortunate if the security operations at issue were allowed irreparably to injure the good name of the force at large. Elementary fairness requires, therefore, the fastest possible action to repair the damaged morale and reputation of this key institution.

While the Royal Commission has a vital role to play in the ultimate adjustment of our legal machinery, it is important to act now on a number of fronts. Accordingly, the Canadian Civil Liberties Association recommends the following measures.

1. Correct the statements to which we have objected in this letter. We appreciate the unusual nature of this request but the circumstances are also unusual. The democratic processes cannot long work in the absence of a substantial consensus in favour of obeying the law. It is important, therefore, to correct any remarks which could erode that consensus.
2. Make all relevant information on alleged RCMP law breaking immediately available to the relevant Attorneys General of the provinces. In view of the Federal Government's admission that the RCMP may have been involved in hundreds of illegal break-ins, the provincial law enforcement authorities should be given whatever help they need fully and quickly to conduct investigations and initiate prosecutions.
3. Launch immediate disciplinary proceedings against those members of the RCMP and its security forces upon whom Ministers of the Government relied when they erroneously told the House of Commons that, beyond the Agence de Presse Libre affair, there had been no substantial misconduct.
4. Launch immediate investigations at the federal level into the allegations of illegal conduct in the Post Office, the armed forces, and any other federal agency in respect of which there is such suspicion. The stated lack of investigators outside of the RCMP cannot excuse the complete deferral of these investigations to the Royal Commission. While we would not wish to discourage any Commission involvement in this area, the seriousness of the matters requires immediate investigation by the Government. Moreover, the results should be announced publicly and prosecutions should be launched promptly where the evidence so warrants.
5. Establish a Parliamentary Committee for the purpose of inquiring into how the various Ministers of the Crown have exercised their responsibilities to supervise the RCMP and whatever other federal agencies may be implicated. In order to maximize public confidence in the proceedings, the Chairman should be a member of one of the opposition parties and the Committee should be endowed with full subpoena powers to require testimony from Cabinet Ministers including the ability to hear evidence related to national security, in camera if necessary.

Even if some of these ideas might overlap with the work of the Royal Commission, they are worthy of adoption. In matters of such gravity, duplication of effort may well be beneficial.

In the opinion of the Canadian Civil Liberties Association, the mounting scandals and the Government's response to them involve nothing less than the viability of the rule of law in this country. The public interest requires the fastest possible action to restore it. On that basis, we urge the immediate implementation of the foregoing measures.

Sincerely,

Emmett M. Hall
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- Send the following note to
The Right Honourable Pierre Trudeau
Prime Minister of Canada
House of Commons
Ottawa, Canada

DEAR MR. PRIME MINISTER

THIS IS TO URGE YOUR IMMEDIATE ADOPTION OF THE MEASURES RECOMMENDED BY THE CCLA IN ITS GLOBE AND MAIL AD OF NOV. 19, 1977.

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