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May 13, 1992

PURPOSE/URGENCY  
COMMENTS: ASAPMEMORANDUM FOR PAUL M. TELLIERHomosexuals in the Public Service in the 1950s & 1960s

Mr. Robinson in his telephone call to you asked whether it would not be possible to provide those who wish to do so, with an opportunity to air their grievances by asking the RCMP Public Complaints Commission to hear complaints on this issue.

Mr. Robinson's suggestion raises two issues, the first of which relates to the body which would undertake such a review. While the RCMP Public Complaints Commission is the kind of review body which could undertake hearing such grievances, it is probably not the appropriate body. The RCMP Security Service was responsible for carrying out investigations with respect to homosexuality, but in doing so the Service was carrying out investigations in furtherance of Government policy. The decisions with respect to denials of security clearances or dismissals, resulted from those investigations, but those decisions were not the decisions of the Service, rather they would have been taken by government officials of the day. It would, therefore, make more sense to ask a body like the Human Rights Tribunal or the Public Service Staff Relations Board to conduct any such review.

I would add as well that as the RCMP Public Complaints Commission is without a Chairman and is in the process of being amalgamated with the RCMP External Complaints Commission, it would likely not be in shape to take on such responsibilities in the near future.

As to which of the two would be the most appropriate, there are a number of considerations that one would have to take into account including the personalities involved, before coming to a final decision. On balance the Human Rights Tribunal is probably better suited to hear such cases. I note,

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however, that the process will be difficult. All of the files have been destroyed in accordance with a recommendation of the McDonald Commission. Hearings may, therefore, be long, contentious and unsatisfactory for some complainants. As well, a decision to have a review of these cases may require some statement defining the errors of previous policy in order to give the reviewing body a standard to assess conduct in the past which was at the time in accord with Government policy. A by-product of such a statement may be to allow some to contrast that statement with the position of the Government on homosexuals in the military and on amendments to the Human Rights Act.

The second issue raised by Mr. Robinson relates to the result of any such review of specific complaints, which is to say what redress is to be offered. An opportunity to simply make a complaint is likely to satisfy neither the individuals involved, nor the body hearing the complaints (i.e. it will want to do something). A decision will, therefore, be required as to the kind of redress that will be available. Since most incidents will have occurred some years ago, it is likely that any such redress will be in the form of money, which will encourage more individuals to come forward. Before adopting this option, therefore, the Government will need to decide that it is willing to put money on the table.

In the circumstances, I would suggest you sound out the Prime Minister and then if he is willing to proceed, the issue could be discussed with Ministers.

W.P.D. Elcock

Elcock:rms