



April 15, 2011

REPRODUCTION

Mr. Brian J. Saunders, Director of Public Prosecutions
Public Prosecution Service of Canada
284 Wellington Street – 2nd Floor
Ottawa, Ontario K1A 0H8

Dear Mr. Saunders,

It has come to my attention that the actions of one or more Ministers of the Crown may raise several potentially serious violations of the law for your consideration.

I believe that members of the Cabinet may have willfully disobeyed a federal statute, which I recognize could constitute a contravention of s. 126. (1) of the Criminal Code. This matter arises from the apparent misappropriation of funds in contravention of two appropriation Acts and in contravention of the *Financial Administration Act*. The former Minister of Infrastructure and Communities, the Honourable John Baird, P.C., and the current Minister of Industry, the Honourable Tony Clement, P.C. appear to have been the Ministers responsible for the apparent misappropriation of funds, however it is unlikely they could have achieved their ends without the collaboration of other members of the Cabinet.

I base this concern on a possible misappropriation of funds granted to the Crown by the House of Commons through *Appropriation Act No. 2, 2009-2010* and *Appropriation Act No. 4, 2009-2010*. Based on the accompanying Estimates tabled in Parliament by the Government, Parliament approved the use of funds for the Border Infrastructure Fund. However, recent revelations make it clear that the monies approved by Parliament for that specific purpose were instead used to subsidize infrastructure projects in the Muskoka region that have no bearing on international border services. I believe that the stated intent presented to Parliament for the use of these funds cannot be reconciled with their actual use, and may constitute an intentional subversion of Parliament's authority for the appropriation of public funds. If so, this appears on its face to be a potential violation of s. 26 of the *Financial Administration Act*, and therefore a willful contravention of an Act of Parliament.

Allow me to draw your attention to the relevant section of the *Criminal Code* that establishes a general offence provision in relation to Acts of Parliament generally. Section 126. (1) of the *Criminal Code* states:

Everyone who, without lawful excuse, contravenes an Act of Parliament by wilfully doing anything that it forbids or by wilfully omitting to do anything that it requires to be done is, unless a punishment is expressly provided by law, guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.

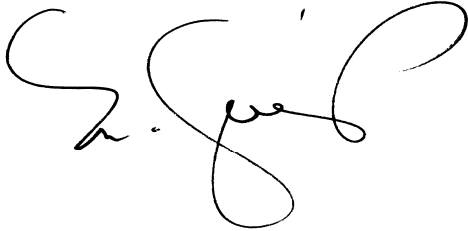
In this case, the apparent misappropriation of funds is not only contrary to the Appropriations Acts that granted parliamentary authority to spend the funds, but it is also contrary to s. 26 of the *Financial Administration Act*, which states:

"Subject to the Constitution Acts, 1867 to 1982, no payments shall be made out of the Consolidated Revenue Fund without the authority of Parliament."

Furthermore, these actions appear to violate the spirit and intent of the *Federal Accountability of Act* of 2006, which committed the Government of Canada to ensuring "truth in budgeting."

I respectfully ask that you initiate an investigation into this matter. Please feel free to contact me should you require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Jennings', with a large, stylized flourish extending to the right.

The Honourable Marlene Jennings, P.C.

Cc: Mr. William Elliot, Commissioner of the RCMP