

Bernard Payeur's Golden Whistle Award Acceptance Speech

(December 5, 2009)

Thank you Allan and Canadians for Accountability; thank you Mr. Weldon and your Peace Order and Good Government colleagues; heartfelt thanks to all of you for this honour.

Maybe these honours should go to our spouses. Whistleblowers are a naïve bunch in many ways; we think truth will eventually prevail ignoring Mark Twain's warning that this is simply not so, with Allan's experiences as the ADSCAM whistleblower being the exception to the rule.

We think we know what we are doing; our spouses know better, they know a train wreck is just around the corner but support us and our illusions anyway.

One of the reasons that whistleblowers fair so badly in Canada is that the people who should be a whistleblower's natural ally and protector have become their worst enemy. These people are easy to identify, they are the people that have perverted the meaning of the word honourable.

Can anyone here say that the Honourable Peter Mackay behaved in any way that could even remotely be considered honourable in his attacks on Richard Colvin?

The first of these honourable men and women that would seal my fate was the Right Honourable Joe Clark.

To be brief, he is the only honourable man I will speak about today, quoting from my book *Shooting the Messenger*:

Before beginning my short discourse — which should not last more than eight minutes — in the former Prime Minister's defense, he probably was not aware of what government officials were doing in his name at the time.

Let's begin with the hearing before Thomas W. Brown.

To argue that my dismissal was all well and good the government sent Doctor of Law Luc Leduc, Doctor of Law Mylène Bouzigon and Doctor of Law and Queen's Counsel Robert Cousineau representing the Attorney General of Canada.

To cross swords with this formidable gathering of *Doctorates* the Public Service Alliance of Canada sent Evelyne Henry, a former secretary with training in the art of adjudication.

Considering her handicap, Evelyne did a very credible and professional job in presenting the mountain of evidence of systematic abuse of privilege and of the person. Her logic, her organization of the facts was impeccable; her pointed probing cross-examination of government witnesses impressive.

To the logical precise questions of Evelyne they responded in a manner that would have led a person unaware of what was going on, and walking into Thomas W. Brown's Hearing Room, to think that they had accidentally walked into a rehearsal of a Monty Python sketch.

The hearing before Thomas W. Brown lasted three days; a fourth day was reserved for closing arguments.

How did we get here? Back to Foreign Affairs for a moment.

The end was near. I had been served with a notice that shortly, at management's discretion no less; I would be required to serve a ten-day suspension

My resolve to let myself be fired on bogus insubordination charges then show up the Department for what it was in court had more or less evaporated.

I decided to offer my resignation, but not to my Director or his lackey. I could not give them that satisfaction. I would offer my resignation to the newly appointed Minister of Foreign Affairs, a former Prime Minister, the Right Honourable Joe Clark.

In my letter I offered to quit then and there and get away as far as I could from the insanity.

I rationalized my giving up by telling myself that Clark was an honourable, courageous man and he would do something about changing the way Foreign Affairs did business. I did not need to stick around to see it happen.

I could not count on Clark getting my letter offering to quit if I sent it through regular channels.

I asked a long time acquaintance who worked on Parliament Hill whom she considered the most honest MP, a Member of Parliament which Foreign Affairs could not bribe or otherwise influenced.

She did not hesitate, not even for a moment; "David Kilgour," she said.

I met with Kilgour for about an hour. He would add his own comments and arrange to have his and my letter delivered directly to Clark, by-passing Foreign Affairs officials.

These precautions would all be for naught.

Ten days later, I received a letter from Clark. In his letter the Right Honourable former Prime Minister not only ignores my offer to resign (which at this stage is a moot point), but dismisses all my allegations, while expressing complete confidence in his officials.

Back to the hearing before Thomas W. Brown

Joe Clark's letter was the furthest thing from my mind when Luc Leduc rose to make the government's final arguments as to why my firing by the diplomats was all well and good.

After three days of hearings before adjudicator Brown where a mountain of evidence had been introduced as to the perfidy of Foreign Affairs officials, including evidence that their actions were nothing short of criminal, what could Leduc possibly say in rebuttal?

Leduc did not even try! He opened his briefcase took out Clark's letter to me and as he walked to where Thomas W. Brown sat in judgment said: "I have here a letter from the Honourable [it should have been The Right Honourable] Joe Clark to Mr. Payeur where he expresses complete confidence in officials."

He placed the letter in front of adjudicator Brown, looked him in the eye, and dared him to call Joe Clark a liar. His exact words were: "Are *we* prepared to call Joe Clark a liar?"

Leduc may have said "we", but he meant YOU, Thomas W. Brown!

All judicial appointments in Canada are political appointments. Leduc was daring adjudicator Brown to embarrass the very people on whom his job depended. This was out-and-out intimidation, if not blackmail!

What would Thomas W. Brown do?

Evelyne was taken aback by this last minute introduction of Joe Clark's letter, but not Thomas W. Brown.

During the entire hearing, Thomas W. Brown had sat there like a bump on a log taking notes, saying very little.

His demeanour when Leduc placed the letter before him, daring him to call Joe Clark a liar did not change one bit. He put the letter aside and wrote himself a note.

Evelyne, in the meantime, had obtained a copy of the letter from Leduc and was quickly acquainting herself with its content.

I just had to ask Leduc: "Where did you get that letter? That was between me and Joe Clark."

That last remark does demonstrate a certain naivety, I must admit. I also no longer believe in Santa Claus.

Leduc, of course, ignored my question, as we all waited for Evelyne to finish reading the letter and take in the implication of what Leduc had just done.

Her reaction was what Thomas W. Brown should have been.

She got up, glancing at the letter, then glancing at Thomas W. Brown, shaking her head, her arms outstretched palms up as if pleading, as she argued that this letter had no business at this hearing, that it was a private correspondence between a citizen and an elected official.

The normally inscrutable Thomas W. Brown listened to her, then smiled at her, a condescending smile, then turned to Mr. Leduc:

Brown: "Do you have anything else to add?", or something to that effect.

Leduc: "No"

Brown then adjourned the hearings got up and began a slow walk towards the door to his chambers, but before he got there, he stopped and turned towards Evelyne and me. He asked Evelyne if they could talk for a minute. He pointed to me, then to the exit to the hearing room and told me to wait outside.

The tête-à-tête between Thomas W. Brown and Evelyne Henry did not last more than fifteen minutes. When Evelyne emerged from the hearing room she was a completely different person. Taking on a distinctly authoritative tone she said: "He wants you to drop this! He does not want to render a decision! He is not about to call Joe Clark a liar! He wants you to negotiate a settlement with Treasury Board! "

I needed the money, but this was not only about money, it was about doing the right thing and not getting your livelihood taken away from you for doing so.

I felt I had done the right thing, and now I expected Thomas W. Brown to do the same and rule on the evidence. I told her that.

Evelyne was not impressed. She explained that Thomas W. Brown and she had a good working relationship and she did not want to spoil it. Then, moderating her tone, she said: "If you won't do it for yourself, do it for your union. I have three other cases pending with him and he promised me a favourable ruling if I get you to drop this."

This could not be happening. This is how I imagined Diogenes must have felt after walking the alleys of ancient Athens with his lamp looking for an honest person and never finding one.

"No," I insisted, "he is going to do his job whether he likes it or not."

I must admit I was upset. I did not care that Thomas W. Brown feared if he ruled in my favour he would be offending Clark, and I absolutely did not care to be an accomplice to an appalling breach of professional ethics on the part of both Thomas W. Brown and Evelyne.

Thomas W. Brown and Evelyne were friends — I was just a client, a recent acquaintance. Whose interest would Evelyne champion at this critical juncture?

For a lawyer, the ethical choice would have been obvious; for Evelyne, it was not that simple.

Thomas W. Brown would go on to become *Chairman of the Public Service Staff Relations Board* and Evelyne Henry *President of the Public Service Alliance of Canada*.

Bernard Payeur