

# WILL THEY EVER LEARN?

## TRAILING IN THE POLLS WITH A WEAK LEADER, THE DESPERATE LIBERALS GO NEGATIVE

BY KEVIN STEEL

Imagine you are given a new job and a new office. When you move in, you discover a briefcase full of confidential files. Is it yours? Actually, no. “Even if we come upon something otherwise lawfully, for example, if we take over someone else’s office lawfully, once we become aware of another person’s property and we keep it, even temporarily, it is called ‘theft by conversion,’” says Shawn Beaver, a prominent criminal lawyer with Taylor Beaver LLP in Edmonton. “The law does expect you not to detain, not to keep it, even temporarily. If you form the intent to return it to the authorities for turning it over to the rightful owner right away and you do so, then you haven’t committed an offence. But detaining it for any time is called ‘theft by conversion’—converting something to yours at least temporarily belonging to somebody else to your knowledge,” he says.

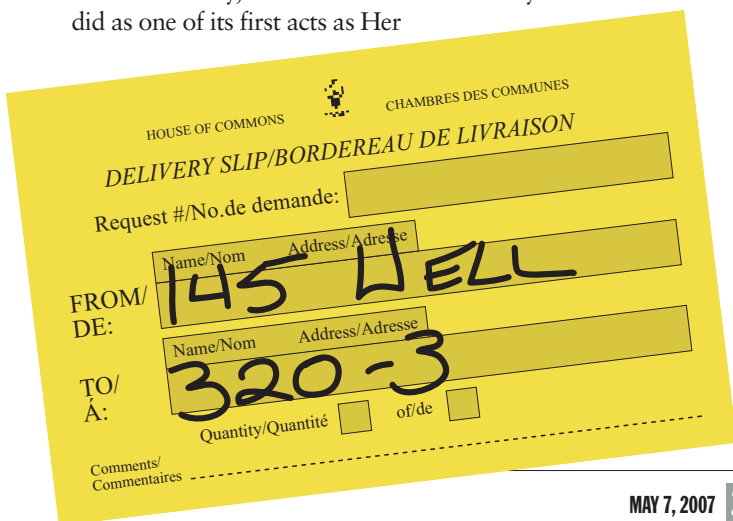
Unfortunately, that’s what the Liberal Party of Canada did as one of its first acts as Her

Majesty’s Loyal Opposition, when it decided to keep Conservative files that were supposed to be transferred by parliamentary movers as the parties changed offices last year. The Liberals had lost the January 2006 federal election in large part because the Canadian public viewed them as ethically challenged, so if the party was looking to rebuild, this probably wasn’t the best way to start.

However, nobody outside the Liberal Office of the Leader of the Opposition (OLO) knew they had the files. For 14 months they held onto them—30 boxes full of personnel evaluations, private correspondence, newspaper clippings and who knows what else, some of it dating back to the Canadian Alliance and even the Reform party years in the 1990s—and kept quiet about it while the Liberal Research Bureau in the OLO rifled through them looking for dirt.

The fact that the Liberals would stoop to such depths, resorting to an almost Watergate-style skullduggery by snooping through private files they only had access to because of their theft, indicates they see themselves as being in big trouble. Indeed, their new leader, Stéphane Dion, doesn’t seem to be inspiring much confidence. In an SES poll conducted for the Sun Media chain between March 31 and April 5, only 16.7 per cent of Canadians thought Dion would make the best prime minister, compared to 42.2 per cent for Stephen Harper.

There are other signs of desperation. On April 3, Liberal blogger Jason Cherniak, an official with Dion’s leadership campaign, produced an Internet TV ad taking a quote from Stephen Harper out of context in an attempt to portray the prime minister as if he enjoyed the deaths of soldiers in Afghanistan. (It was too much even for Liberal supporters and he took it down.) Then there’s legal bullying; on March 23, failed Liberal leadership



candidate Gerard Kennedy and MPs Navdeep Bains and Omar Alghabra served the *National Post* and columnist Jonathan Kay with a libel suit for a critical column published a month before. But rifling through stolen documents?

Tim Powers, a Conservative strategist, says it's pretty bad when people are going through the garbage or appropriating items that aren't theirs. "This speaks to the difficulty the Liberals are having themselves, developing an identity under Dion and com[ing] forward with meaningful stuff," Powers says.

It fell to 32-year-old Liberal MP Mark Holland to introduce to Parliament what the Liberal snoops had found. On March 22, Holland stood up in the House of Commons and said he had turned over to the RCMP private correspondence that showed that in 2000, then Okanagan-Coquihalla MP Jim Hart had asked for and received an inducement to step aside so the newly elected leader of the Canadian Alliance, Stockwell Day, could run in his seat. The Liberal press release of that day said, the "documents . . . came anonymously into [Holland's] possession." On the same

day, however, the online magazine PoliticsWatch.com published a story with this revealing sentence: "An official in Liberal Leader Stéphane Dion's office told PoliticsWatch that the Conservatives left approximately 30 boxes of documents in the Opposition leader's office last February after they moved into the PMO." In the House, the Conservatives pointed out that the RCMP had looked into the matter seven years ago. And so the story started to turn to the source of Holland's information.

As the story turned, it started changing. The next day, the Liberal-friendly *Toronto Star* published a report wherein the 30 boxes suddenly turned into "thousands and thousands of pieces of paper" with "Liberal staffers idly combing through" them, just happening upon what Holland said was the "smoking gun" in the Hart/Day business. It wasn't an "anonymous" source that gave Holland the Hart memos, after all. It was other Liberal staffers

who found them amongst the stolen Conservative papers.

Obviously thinking the public wanted to hear more about their treasure trove of information, on March 26 Holland and Liberal justice critic Marlene Jennings called a press conference. Here they displayed 10 boxes of the documents to the media and started

pulling out files. These were personnel evaluations and the like, very private stuff. The two Liberals said it was all found in drawers and in filing cabinets. They said this showed "gross negligence" on the part of the Tories—after all, someone unethical could have found them and rifled through them.

But the Liberals' announcements were just beginning. The *Ottawa Citizen's* Juliet O'Neill quoted Holland and Jennings as saying, "They held back another dozen boxes of papers in case they find some 'of public interest.'" The two then led a procession through the rain with a trolley bearing the boxes and, surrounded by the national media, delivered them to the doorstep of the Prime Minister's Office. They were so pleased with themselves, they shot their own video of the event and posted it on the Liberal website.

But as they walked through

**"Theft by conversion":**  
In a procession led by Liberal MPs Mark Holland and Marlene Jennings, the Grits return Conservative personnel files they "found" when they moved into Opposition offices more than a year ago. The yellow shipping label clearly marked the boxes for transfer to the PMO



## ETHICS IN POLITICS

the rain, prominently visible on one box was a yellow sticker. After the Conservatives got their material back, they realized this was a shipping label showing the boxes were to be moved from the Conservatives' old Opposition office on the ground floor of Parliament's Wellington building, to their new location on the third floor. Conservative spokesman Ryan Sparrow says the boxes were quite clearly labelled in January 2006. "There were office managers who were there. They did box things up.

*"Either the House of Commons didn't move [the boxes]—and the Liberals should have alerted them—or the boxes were not there when the House of Commons movers came to move them"*

Obviously, it's just like moving house. You box things up and you label them. In the House of Commons there are particular people who move them upstairs," Sparrow says. He says he's not about to throw around accusations, but there are two possible conclusions that can be drawn from this. "Either the House of Commons didn't move them—and the Liberals should have alerted them—or the boxes were not there when the House of Commons movers came to move them. That's something they are going to have to answer because, quite honestly, we weren't there at the time," Sparrow says.

A close-up of the shipping label appeared in a video that was posted at the online video site YouTube by a Conservative supporter, claiming the Liberals stole the documents, but the video was quickly yanked by YouTube when Liberal staff tried claiming copyright because a portion of the Conservative supporter's video included a snippet from the video on the Liberal website. This detail—the after-the-fact censorship of the video—marked the first recognition by the Liberals that the story had shifted from old Conservative documents to Liberal ethics. And it marked a change in tactics: the beginning of the attempt by the Liberals to smother the story, using all means available—even legal bullying.

On March 29, Conservative MP Scott Reid stood in the House of Commons on a point of privilege and alleged the Liberals were in contempt of Parliament for holding onto the documents for so long. Reid's personnel file was one of the ones displayed to the media by Holland and Jennings—he had been a staffer with Reform and then the Canadian Alliance party during the period covered by the records, and his file was one of those highlighted in the Liberal video boasting of their "discovery." Holland countered that the Liberals were under "absolutely" no obligation to return the documents.

After the story turned from Conservative files to Liberal ethics, Jennings and Holland went to ground. The two MPs who had held a press conference, issued press releases, and even produced a video of their activities, refused an interview request for this story. Holland, through his executive assistant Richard McGuire, claimed he was instructed not to conduct an interview on advice of his lawyer. (Holland has issued a press release stating his intention to sue the *Toronto Sun*, the *Calgary Sun* and *Western Standard* publisher Ezra Levant for the latter's column on

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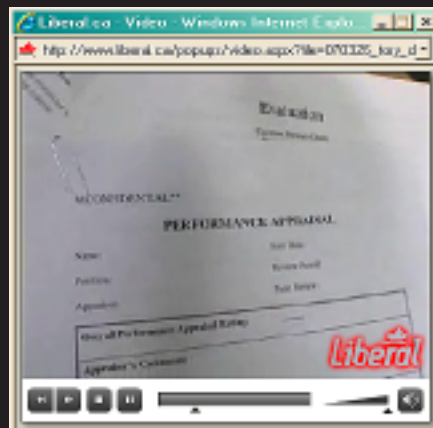
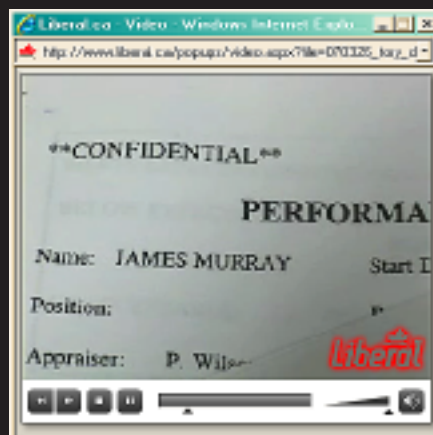
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Holland's handling of the documents.)

Despite the lawyer's gag order, McGuire did attempt to explain to this magazine, via e-mail, Holland's role in the whole affair, effectively placing the blame for the theft squarely on the shoulders of Liberal researchers working for the OLO—now Stéphane Dion's men. "Neither Holland nor Jennings EVER had any of the personnel documents in their possession except at the press conference, from which they were delivered to the PMO in the Langevin building, and neither MP 'held back' any documents," wrote McGuire. "In fact, neither Mr. Holland nor I even KNEW about any of these documents at all until we learned of the Jim Hart payoff documents on March 21, and at that time neither of us knew anything about the other documents."

On April 17, the issue came up again in the House, with Holland rising to address Reid's point of privilege. He now informed everyone, "all remaining documents have been returned to the sergeant-at-arms on April 10. Second, I can also confirm that these documents were returned and that they were not copied or tampered with in any way." He added that only one researcher had "looked through the files in question and that this one staffer is prepared to state under oath that he did not copy or mishandle the said documents in any way." Holland by his own admission had received only photocopies of the Hart/Day documents, so it is known that some were indeed copied. As for the return of the documents on April 10, that could not be confirmed by the *Western Standard* by press time. As of April 17, Conservative spokesman Sparrow says they've only received the original 10 boxes from the Liberals that were shown in their March 26 video, and nothing further.

Conservative MP Reid stood up right after Holland and gave the Liberals a blast, saying he did not trust those responsible to tell the truth about the matter unless they were under oath before a parliamentary committee. He pointed out there were four different alibis from the Liberals on how they came to possess the files: first, the files came from Holland's anonymous source; then they were found in the 30 boxes left behind; then some of the files came from the boxes and others from filing cabinets and drawers; finally, there were no boxes at all, just files left behind. Reid acknowledged that Holland was probably not "the primary culprit here," then later laid the blame on the OLO. It was more than blame, however. He accused them of misdirecting and intercepting mail. "That means the law has been broken by the Office of the Leader of the Opposition, which has been in



**Clips from the Liberals' home movie of the theft, posted on their official website. The video shows confidential personnel files belonging to Conservative staff members, including sitting MP Scott Reid**

possession of stolen property," Reid said. As for the Liberals' March 26 boast that they were retaining files to examine them in the public interest, Reid asserted, "Unless I am mistaken about how these boxes fell into the Liberals' hands, this, too, represents possession of stolen property."

In an interview, Reid says this situation has gone a long way to harming the working relationship on Parliament Hill among MPs. "I think there is a common degree of trust one expects, and this is really an egregious shift," he says, adding that it will make it more difficult to function as an MP. "You have to spend all your time making sure everything you have is moved or shredded or destroyed for fear it would be used in such a manner."

Speaker of the House Peter Milliken had not ruled on the matter by press time, but after hearing Reid's complaint said, "legal breaches of the law do not constitute breaches of privilege of the House"—a warning that Reid and other Conservatives who had their files rifled would have to take their more serious complaints, such as theft, directly to the RCMP. Other breaches of the law, including violations of the Privacy Act or the Personal Information Protection and Electronic Documents Act, two other Canadian laws that govern how personal information must be protected, would be under the jurisdiction of the federal privacy commissioner. And Reid and the other Conservative staffers would also be able to file a civil suit against Holland and the Liberal research office for breach of privacy.

So there's a poisoned working atmosphere, not to mention possession of stolen property, privacy law violations, and potential civil lawsuits afoot, and it all goes back to the OLO, now occupied by an ever-weakening Dion. Holland's

alibi of being a mere puppet of Dion's staff is plausible, but hardly an acceptable excuse from anyone who calls himself an "honourable member" of the House. It might get Holland off the hook from Reid's point of privilege, but only by shifting the blame onto Dion himself. Maybe Dion can shift the blame, too, back to the moment the Liberals took over the OLO and seized the documents, long before Dion became leader. But that doesn't explain why the documents were still kept after Dion became leader, why Holland was still recruited to be the front man for the announcement of the theft, and why the videotape confessing the theft remains on the Liberal website to this day. The Liberal party has had four different explanations so far. Maybe another one is on the way.

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