

Allegations false: Crown attorney

• from DEFENCE on page 1

duced until Mr. Olah's cross examination of Mr. Vastis late one afternoon. The letter had been faxed to Mr. Olah earlier that morning, court heard.

"The position of the defense is clear," Mr. Crocker said. "Despite having information at 11:30 a.m. at the very latest, he (Mr. Olah) held it until after I was finished (with Mr. Vastis) and he was into his cross examination. Why he held it I can only surmise."

The only appropriate remedy is a stay, Mr. Crocker concluded. "My opinion is the accused has been clearly prejudiced."

But Mr. Olah told the court the allegations against the prosecution are unfounded. Information was turned over as it surfaced, he said, and the obligation of the prosecution to make "continuing disclosure" throughout the case proves its right to continue investigating.

He adamantly disagreed that late disclosure is the same as non-disclosure, and said the Crown was in a lose-lose situation.

"This puts the Crown in the position of being caught between a rock and a hard place. If we don't disclose, it's non-disclosure. If we do disclose, we're criticized for making late disclosure," Mr. Olah said.

He added the Crown has a duty to turn over relevant material, but argued the relevance of some of the information Mr. Crocker wanted.

Mr. Olah said the vast majority of requests for stays are denied and that they're to be used only in "the rarest of cases."

Mr. Crocker has no evidence the defense has been prejudiced, he concluded.

The case will continue April 5 in Burlington.

Stephanie Thiessen can be reached at sthiessen@miltoncanadianchampion.com.



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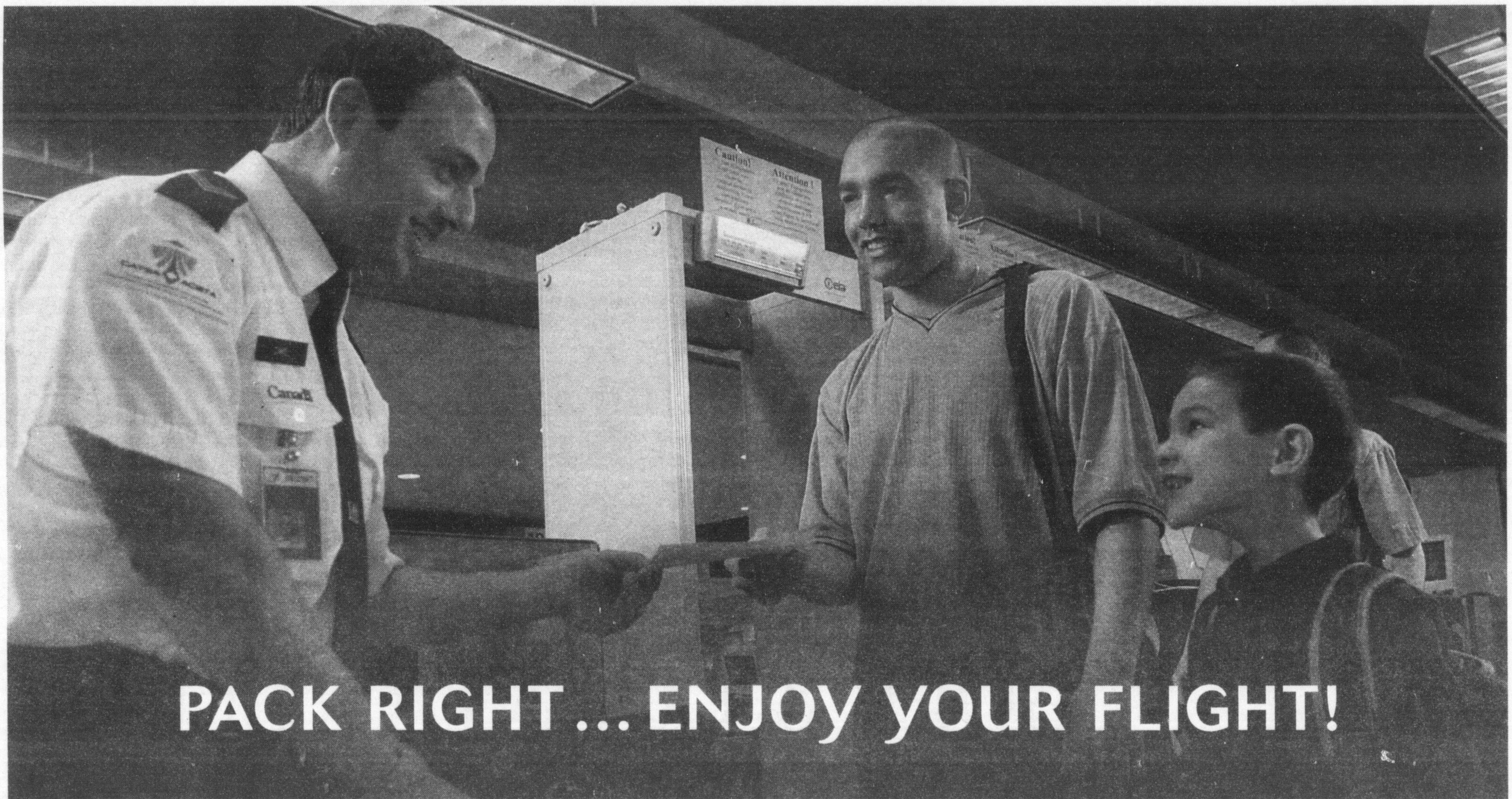
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