ATTACHMENT #2.

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DEPARTMENT OF JUSTICE

1. Departmental administration including grants and contributions as detailed in the estimates, $1,378,100.

The Chairman: Shall this vote carry?

Mr. Pearson: Mr. Chairman, I know it is unusual for the head of the government to speak on the introduction of the estimates, on item 1, which initiates a general discussion. I do so on this occasion because I want to take advantage of the opportunity to make a brief statement concerning some changes that have been introduced in policy and procedures relating to the security of the operations of government and of the defence services. The fact that I am doing it—and I will be followed by the Minister of Justice—is, I hope, an indication of the seriousness which the government attaches to this problem, the importance which we attach to it and my own interest, as the head of the government, in it.

Security is one of those things that is essential and, at the same time and in some respects, rather distasteful. I think we would all prefer if we could ignore the necessity of security and do away with the procedures and precautions it imposes upon us. Unfortunately, Mr. Chairman, we cannot; we have no immunity from this responsibility. While we in Canada have not had for some years a sharp and immediate shock in the exposure of espionage, that does not mean the threat has vanished or that the necessity to meet it has diminished. We have had ample evidence both here and in allied, friendly countries—recent evidence—that security is as important a matter today as it has ever been.

It is still the responsibility of government to ensure that every reasonable precaution is taken to protect the security of the nation in all its aspects. The security which I am talking about tonight—and it is only one aspect of security—and which must be provided is of two kinds. First, the government must ensure the physical safety of the secret, classified information for which it is responsible by devising effective regulations for its proper handling and proper storage. However, physical security is in itself of little use without the added assurance that the people handling the material in question are people in whom government can have full confidence. It is in this area of personnel security that most of our difficulties lie, in which government responsibility is, I think, heaviest and perhaps most difficult to discharge. An important phase of that responsibility is to ensure that the protection of our security does not by its nature or by its conduct undermine those human rights and freedoms to which our democratic institutions are dedicated.

If our security policies ignored, or did not take sufficiently into account, the basic rights of the individual, they could operate not to defend but to destroy the liberties which are our first concern. The reconciliation of these competing responsibilities and these competing obligations is not easy. Governments in this country, in the United Kingdom, the United States, France and in free countries everywhere have wrestled, and indeed are wrestling, with this problem. There is no perfect solution to it; there is no perfect answer to it. There is no solution that does not entail some risks, risks to security or risks to individual rights, or risks to both.

Mr. Chairman, there have been recent expressions of concern in this House of Commons and elsewhere, not so much about the adequacy or, if you like, effectiveness of our defence security measures as about the fairness and justice to the individual citizens concerned. I recognize, as I am sure all hon. members of the house recognize, that concern and find it reassuring and, indeed, gratifying.

Let me make it quite clear, Mr. Chairman, that the concern which has been expressed about this matter is fully shared by this government, as I believe it was fully shared by those responsible for government in the past. The security measures which have been developed here in Canada, through sometimes bitter experience, are intended to be preventive and not punitive. Their purpose is to protect the safety, interests and indeed the freedoms of all Canadians. They are under constant and continuous review, with the purpose of striking the balance I have referred to between the protection of the state and the protection of the individuals who, in a free society, alone give the state its direction, its purpose and indeed its meaning.

Since they were introduced in this country in 1947, the so-called security screening procedures adopted have, on the whole, worked well, though of course, Mr. Chairman, there have been mistakes. But I believe we have for the most part avoided excesses both of over-caution and over-confidence. There are nevertheless admittedly certain flaws in

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the system and it is to these that the government has been directing its attention recently. It is also to these that members have been addressing questions to the government in the House of Commons.

It has been suggested that our security system might be better served by the establishment of a quasi-judicial tribunal to which persons who had been denied employment in government or dismissed from government employment for security reasons might have a right of appeal against that decision. This proposal has been given intensive study by various Canadian administrations over a number of years and the conclusion invariably arrived at has been essentially this: quasi-judicial procedures cannot fairly and effectively be applied to these matters. By the very nature of the security risk and the measures which have to be taken to try to meet that risk, it is often impossible to bring forward for open scrutiny all of the relevant information in any particular case. To some degree the consideration of employee security in the consideration of this problem in judicial or in legal terms beclouds rather than clarifies the issue.

No lawyer thinks of judicial procedures and the canons of evidence when he decides to trust a secretary with private or secret papers. Confidence is not the kind of thing which is always capable of determination by concrete or specific evidence. It may depend on many things—the record of a man, his character and his habits, the nature of his activities, the stability of his personality, the company he keeps, and the pressures to which he may be susceptible. Judgments of character and confidence are important in private affairs; they become far more important when the security of a nation is at stake. But they are not, however, different in their essential nature. Every minister and agency of government is accountable for the security of their operations. Consequently, each must be responsible for the reliability of the people to whom it gives access to the things on which national security may depend.

The granting or the denial of a security clearance is an administrative matter, one of managerial responsibility. In making a decision that an applicant or employee may not safely be given access to secret and confidential information, the head of a department or of an agency is not denying an individual a right. No person, of course, has a right to see official secrets. The department head is merely exercising the judgment he is expected to apply on the basis of all the information available to him in the way that any sensible person would exercise such judgment in hiring a secretary, a cashier, a lawyer or a doctor, ensuring that such person could be trusted with his property, his private business or his physical health. The government also has an obligation to provide itself with every reasonable assurance that those of its employees who require access to the government's, the nation's secrets are loyal and trustworthy and not vulnerable to persuasion, coercion or blackmail.

While it is the responsibility of departments and ministers to take the ultimate decision on the security of their personnel, this is of course done within directions as to policy laid down by the government. The question has arisen whether it might be desirable to have some procedure for a hearing or a rehearing of employees, short of a judicial or quasi-judicial procedure, which would ensure that their side of a case was fairly heard. The United Kingdom and the United States do have such procedures, while they leave the final decision to the agencies involved. So far in Canada we have not had these procedures.

After careful consideration the government has come to the conclusion that the essential advantages of these procedures can be achieved within our system by requiring all departments and agencies of government to do two things which they have not previously been required to do. The first of the new requirements is to inform the person involved when his security or reliability is in doubt and may have to involve his dismissal. Employing departments and agencies will in future be required to tell an employee everything that is possible of the reasons for the doubt, if there is a doubt, and to give him an opportunity to resolve that doubt. This practice has been followed in several departments and agencies of the government for many years, and often with very good results, but it has not been mandatory. There will, of course, Mr. Chairman, be cases, which I think will be few in number, in which the sources of the information giving rise to doubt are such that little or nothing can be told the employee of the reasons for doubt without jeopardizing the sources from which the information comes. In these cases, which will, I repeat, be few in number, there will be an added responsibility to exercise the greatest care to ensure that the employee does not suffer unfairly.

The second new requirement is to ensure that a second look is always taken by a separate body before dismissal is finally decided upon. Once the individual is told of security doubts he will have the opportunity to give his side of the case. The employing agency will consider it, consult the staff of the government security panel, and arrive at a conclusion. It may be to accept the person as reliable, in which case no problem arises.

It may be to transfer him to a less sensitive employment, as has been the case certainly more than once in the past, where he would not have access to secret and confidential material. But if it is that his dismissal must be recommended, the individual will be given a second hearing, this time by the deputy minister or head of the agency. If that interview does not resolve the doubts, and if the agency head agrees with the view that dismissal is necessary, the whole case and the relevant information, including anything that the employee himself has submitted, will be submitted to a board of review.

At this point, Mr. Chairman, I would like to say something about the government's advisory agency on security policy. This agency, which has been in operation now for a good many years, is called the security panel. It is composed of senior officers, mostly of deputy minister rank, who have had years of responsibility and experience in the personnel and administrative fields. Security is not their main or sole responsibility. Advise on policy in this area has to be based not on security alone but on a broad understanding of the nature of our democratic institutions and principles, on the policies of government, on the requirements of administration, and finally, and importantly, on the needs of security.

The government has decided that the board of review to which I have referred should be drawn from the members of the security panel. In all cases they will be men who have not been involved in the particular case. They will come to it without bias or preconception. There is no question at all in my mind but that they will provide as fair, humane and sound an evaluation of every case as can be provided in this difficult field.

The board of review will provide its views on each case where dismissal is recommended. It will then be for the responsible minister, in the light of all the information and study, to decide whether or not to recommend dismissal to the governor in council.

I think, Mr. Speaker, that these procedures are as painstaking and thorough as can be devised to ensure the protection both of the safety of essential classified government information and of the welfare and rights of the employee.

A most difficult aspect of security, and one which has always been a matter of concern, is the necessity of taking into account the character and activities of an employee's immediate relatives, or their places of residence. The question has often and properly been asked: Why should a man be denied a security clearance because his father, his uncle, or even his estranged wife, may have been engaged in subversive activity, or may be an active communist? It is not the kind of relationship, whether by blood, marriage or friendship, which is of primary concern. It is its closeness in degree and the circumstances surrounding it in respect of the nature of the job, most particularly the extent of influence that might be exerted, which must dictate a judgment as to a person's reliability. And reliability, of course, is something more than loyalty. It is usually very difficult to establish this, but that does not remove the need of trying to do so.

The collective experience of all nations of the western alliance agrees on the necessity of exploring these difficult matters and arriving at a considered judgment. This experience also shows that security may be in danger if a person in sensitive employment has a mother, father or other close relative behind the iron curtain. Human emotions cannot be expected to be proof against the possible anguish of a loved one—and the brutal fact is that such anguish may be imposed by those who are ruthless in getting, or trying to get, what they want. These are harsh and unpleasant facts, but they do not go away if we pretend that they do not exist.

I feel confident that the procedures which we are now adopting will assist us in making judgments concerning loyalty and reliability in a manner which will protect individual rights as well as national interests.

In making this statement, I hope I have contributed to a better understanding of the principles and issues involved in this aspect of national security, and the means by which we endeavour to preserve it and discharge our responsibility in government.

I have necessarily spoken in general terms, but if the committee would agree—and I know this is an unusual procedure—my colleague the Minister of Justice could follow me and fill in some of the details.

Mr. Diefenbaker: If you let me precede the hon. gentleman, you could answer me and then the detail could be set out.

Mr. Chevrier: The statement I have to make follows upon that which the Prime Minister has just made and, if I might have the permission of the committee to do so, I should like to make it now. If it were separated from the speech which has just been made, I think the effect would be spoiled.

The Acting Chairman: Is that agreeable?

Some hon. Members: Agreed.

Mr. Chevrier: I wish to say at the outset that I think this is a rare occasion, one of the few occasions which I have seen, at least, in

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my long years in the House of Commons upon which the Prime Minister makes a statement on the estimates of another minister. I am not saying it has not been done before. I am simply saying it is a rare occasion and it underlines the importance which the Prime Minister and those who sit on this side of the house attach to this subject.

The committee may remember that the hon. member for Burnaby-Coquitlam brought to my attention, and to the attention of the government, the procedure which was being followed by the Department of Justice and other departments with reference to this matter and I agreed to give the subject consideration, along with my colleagues. I believe the hon. gentleman, together with his hon. friends, thought that this consideration was taking too long but I am sure he will have realized this evening at once, not only by the statement which the Prime Minister has made but by the statement I am about to make, that this is a question which has to be considered in all its aspects, aspects which affect every department and agency of government. That is why a decision with reference to the procedure to be adopted in future has not been reached until now.

I would like at this juncture to make a more detailed statement concerning national security within the context of the statement on security policy by the Prime Minister. In light of the many recent expressions of interest in the means by which the government of Canada protects her secrets and those of her allies entrusted to her, and in light of continuing indications, here and elsewhere, that the need for such protection not only continues but continues to grow, I welcome this opportunity to contribute to a clearer understanding by the people of Canada of the issues involved in this vital, although often misunderstood area of human activity.

I need hardly remind this house of the dangers of permitting information about our defences, the defences of the western alliance or other matters essential to our security to fall into unfriendly hands. I need scarcely recall what happened many years back when certain matters were discussed here and outside. We know that there have been, over the years, undeniably effective efforts of espionage in Canada, in the United States, in the United Kingdom, elsewhere in the democratic countries of the west, and, indeed, through the world.

All the countries of the west know that in addition to the professional agents, a very effective group in securing and passing on vital and secret information are open or clandestine sympathizers with the communist ideology. In their minds they have another—perhaps they think a much higher—loyalty. In any event, there is no doubt but that they play a major role in securing information that others want for purposes unfriendly to our objectives.

Apart from the use of such allies or sympathizers, one of espionage's most effective tools has always been the exploitation of human vulnerability, whether of the body or of the mind. In recent years there has been a frightening concentration on the exploitation of human failings to achieve the ends of offensive intelligence. Any evidence of exploitable weakness, whether it be greed, lust, dishonesty or plain stupidity, is carefully documented and may be carefully nurtured. Eventually, through the patient accumulation of compromising evidence, or simply through a veiled threat that a relative may have some difficulty with the police, it is possible for an intelligence agent to apply pressures which may prove intolerable unless co-operation is forthcoming. If it is not, the evidence, whether it is real or concocted or both, is sent anonymously to employers, relatives and friends, often with the result that a promising career is ruined, not to speak of the personal effect on the individual himself.

Should there be any doubt in anyone's mind, let me say at once that these things have happened to Canadians, as we all know, and will probably happen again. For obvious reasons I do not propose to go further into this matter, but I should like it clearly understood that, for reasons such as I have given, the defensive security measures which have been developed over the years are intended not only to protect our secrets but to protect the individuals who, in having access to them, are thus automatically potential targets for ruthless attacks of the kind I have described.

I should like now to say something about the security screening arrangements which have been devised to prevent espionage, as distinct from those intended to anticipate and control subversive activities generally. I do so with some reluctance because the effectiveness of even these measures is usually reduced in providing information about them. At the same time, I fully appreciate how frustrating it is to members of this house as well as to the public generally, who are rightly concerned that individuals be treated fairly, to be faced with official silence on this vital subject. There will always be matters in this area which cannot be discussed fully in public if our defensive arrangements are to have any effect at all. I am sure all members of the house will agree with the principle of that statement. On the other hand, the effectiveness of these arrangements does not depend solely upon the measures or the individuals involved with them. They depend too upon the understanding and co-operation of all Canadians on

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whose behalf, in the last analysis, these measures have been instituted.

In many ways the secrecy which tends to surround defensive security measures has clouded the homely fact that these measures are essentially a part of good personnel administration. As the Prime Minister pointed out a moment ago, the purpose of our security program is preventive, not punitive. In deciding whether it can have sufficient confidence in an employee to trust him with its secrets, the government is not deciding whether or not he is guilty of anything nor is it dealing with a person's rights as a human being. No one has a right, and I emphasize that, to have access to secret information any more than he has a right to be someone's trusted private secretary. The employer has a right, indeed in most cases a duty, to entrust his secrets and give his confidence only to a person whom he can trust. In withholding that trust he does not infringe the rights of such a person nor accuse him of a crime. Some inference of untrustworthiness in such a case may be implied or conveyed privately. In some cases, as a very last resort, it may have to become public. In all cases, however, the essential question is simply whether an employee can be relied upon in a position of confidence.

Each department and agency of the government is responsible for the safekeeping of the secret information it holds and must administer, and is therefore required by direction of the government to establish beyond reasonable doubt the loyalty and reliability of its employees who have or may readily obtain access to such secret information.

In the first instance, such employees are asked to provide certain basic information about themselves and about close relatives who may influence them or cause them to be influenced in a manner which would bear on their loyalty or reliability. They are also asked now to give the names of persons as character references. This basic information is provided through the completion by the employee or prospective employee of what is called a personal history form. I might add here that this form, which over the years has been subject to revision in the light of growing experience, has recently been reviewed and revised by the various officers in order to establish loyalty and reliability through future and further investigation. In addition, the employee is required to be fingerprinted in order to determine through a comparison with the central fingerprint records of the Royal Canadian Mounted Police whether he has any record of criminal activity of a nature which would bear on a judgment as to his reliability. If there is no such record, the fingerprints may be returned to the employee at his request.

Next, the completed personal history form is forwarded by the department or agency to the Royal Canadian Mounted Police with a request that it be checked against their records to determine whether there has been any indication of participation in communist or fascist organizations or association with persons suspected of espionage. In some cases a further request is made that the Royal Canadian Mounted Police conduct a detailed investigation of the background of the employee concerned. This necessarily involves conversations with former employers and others who can be expected to be able to assist in judging the trustworthiness of the individual in question.

In providing the results of these investigations to the requesting department or agency the Royal Canadian Mounted Police make no comment—I should like to bring this particularly to the attention of the house—give no opinion and come to no conclusions to be drawn from the information which they provide and give to the department or agency. They simply pass it on with any assessment they can give as to the reliability of the sources of the information. The conclusions as to the relevance of that information and the weight to be given it in light of all the circumstances are solely the responsibility of the employing department or agency and the minister in charge of it.

I should like to emphasize this as it appears to be an unfortunate misconception on the part of many Canadians, both in this house and elsewhere, that the Royal Canadian Mounted Police proffer or are asked for advice or opinions concerning the significance of the information they are asked to provide. In fact, quite the opposite is true, and the Royal Canadian Mounted Police have taken extreme care not to interfere in any way with the formulation of a decision, which is the heavy responsibility of the employing department or agency. Advice in arriving at decisions is available to departments through the interdepartmental security panel, and the Prime Minister has given some information on that panel.

I said a moment ago that the responsibility of arriving at a decision as to an employee's suitability to be given access to secrets was indeed a very heavy responsibility. This is so because the senior officers concerned, and eventually the minister responsible, must ensure that a proper balance is struck between the safety of vital information on one hand and the fair and just treatment of the individual concerned on the other. It is in the making of this decision and in its consequences that the difficulties and dangers lie.

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A wrong or hasty or ill-informed conclusion may result in a serious loss of vital information. It may result in a Canadian government employee, his family or his friends, being subjected to intolerable pressures, even though none of them may be seriously at fault and the ruination of careers and reputations through the actions of unfriendly intelligence services. On the other hand, it may result in an able, loyal and trustworthy Canadian being denied an opportunity to serve his country in a position or calling of his own choice. These are some of the possible consequences of an unwise or incorrect decision. It is because the consequences can be so serious that the government has decided to introduce changes such as the Prime Minister referred to earlier. These are changes designed to make more certain that the individual has every opportunity consistent with security itself to give his side of the case. This he did not have an opportunity to do before. Now he will have this opportunity, not once but twice. He will be assured in future of a chance to present all considerations to the permanent head of his department or agency personally. After that, to be sure that no point has been missed and no misinterpretation given, a board of review drawn from the security panel will re-examine the case. In the last analysis, however, the decision whether to recommend dismissal will be that of the responsible minister.

The new and carefully devised procedures will improve our measures and give a new assurance to individual employees. They will not, however, mean that dismissals will not be necessary in some cases in the future as in the past. When they are necessary, however, every attempt will be made to treat problems of unsuitability on grounds of security or reliability in the same way as other problems of personal management are treated. Departments will do their best to hold in strict confidence the information they get concerning individuals, and to take any action necessary in a way that does the least possible damage to reputations and self respect.

I said a moment ago that the Royal Canadian Mounted Police had been charged with the responsibility of keeping the government informed about subversive activity in Canada. As is well known, the Royal Canadian Mounted Police also carry out, on behalf of the departments and agencies of government, the majority of the background investigations I have referred to of present or prospective government employees who are being considered for appointment to sensitive positions. In performing both of these tasks, the police have been subjected at times to public criticism. Some of this criticism has sprung from the university communities in Canada, who have expressed concern over a variety of matters pertaining to security, particularly that our security measures should in no way interfere with the freedom of thought and discussion which is essential to the very purpose of any institution of learning. The government wholeheartedly agrees with this view. In the late summer, the Prime Minister and I had occasion to discuss some of these matters with officials of the Canadian association of university teachers. Those discussions, I believe, contributed to a clearer understanding of the issues involved, and I trust that the statements the Prime Minister and I have made will further add to a better understanding on the part of all interested organizations and individuals of the nature of our security measures and of the reasons for them.

In closing, sir, may I re-emphasize one point? In carrying out their investigative and fact-finding functions in this difficult field, the Royal Canadian Mounted Police do not act upon their own initiative but rather upon instructions from the government of Canada. As a police force in a democratic country, and indeed one of the finest forces in the world, they are at all times accountable, both by law and by tradition, to the government of Canada and through it to this parliament and the people of Canada. They will undoubtedly be criticized in the future, as they have been in the past, for carrying out policies and instructions that the government of the day lays down, within the laws of Canada, as being necessary in the public interest. Mistakes may be made in the future as they have been made in the past. I am certain, however, that so long as these matters are open to public scrutiny and free discussion, we need have no undue concern that essential security measures can deviate far or for long from the principles that are essential to a free and democratic nation. I am equally certain that the Royal Canadian Mounted Police in this, as in other tasks that fall upon them, will do no more than carry out honourably and conscientiously the responsibilities that the government and people of Canada place in their trust.

Mr. Diefenbaker: Mr. Chairman, the matter under discussion is one of the most difficult problems that faces a government today. It is understandable why the Prime Minister should have made a statement this evening as to the policy of the government, for the responsibility of national security rests primarily on the Prime Minister. In discharging that responsibility, he has the benefit of the assistance of the Minister of Justice and the other agencies connected with that department. I found it somewhat difficult to understand the necessity for the detail into which the Minister of Justice went. Certainly, that

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detail did not add very much, except in volume of words, to the statement that was made by the Prime Minister.

In the latter part of his remarks he dealt with the Royal Canadian Mounted Police, which force comes particularly and peculiarly under his direction and control. May I say at once that I have known this force from its earliest days. I knew them on the prairies when they were the North West Mounted Police. I knew them, as counsel, when they were the Royal Mounted Police. I have known them, of course, in the last years since 1920 when they took unto themselves their present name. It is a force great in its heritage, great in its achievements and great in the contributions that it has made to law and order in Canada. I am one who has a peculiar knowledge in that regard, for over the years I acted in the courts from day to day and had on the witness stand, generally on the other side except when I was prosecuting, members of that force. In the hundreds of cases in which I participated, only in one did I find on the part of any member of that force a departure from the elemental justice which has been characteristic of the force.

These criticisms to which the Minister of Justice has made reference are easily made. The force becomes the object of the attack of the individual against the system which they administer. This has its effect. I hope at all times we, and Canadians as a whole, will have that sense of responsibility and not aim our attacks at the force unless there has been, on their part, an injustice perpetrated by them. In that case the other members of the force are generally the first and most immediate judges.

One of the members of the present house, the hon. member for Athabasca (Mr. Bigg), was for a long time a distinguished member of that force, and his father before him. We have had other members of the force in this house. One was General Pearkes, and each and every one of them have served here as they did in the force, to the honour of their country.

I feel, and I am going to be perfectly frank about it, that having the R.C.M.P. act as traffic officers and the like, in carrying out their duties in urban municipalities, has not been in keeping with the tradition of that force, and has had effects that have not been entirely beneficial to the greatness of it. Having said that, I now want to say a word on the subject of national security.

I began by referring to the responsibilities that rest on the Prime Minister's shoulders. From time to time these matters are brought before the people. He carries in his head information in respect to the subject of security that he is almost frightened at times of revealing. The Prime Minister has spoken of the difficulties.

How are you going to maintain security while at the same time preserving and maintaining the fundamental rights of the individual? It is a difficult problem. It is so easy to criticize, but it is so much more difficult, having that responsibility, being desirous of maintaining those freedoms, to be able to carry out one's wishes. Loyalty is expected of all Canadians. It is imperative as a quality of public service.

The maintenance of security is of prime importance to the survival of the state. How often do cases come before a prime minister and he cannot go into the details in the House of Commons. You have the evidence. Often it is secondary evidence; sometimes it is hearsay. The accumulation of hearsay placed before one has an effect, no matter how one endeavours to adopt a judicial attitude.

There are many cases in which the loyalty of the individual is not in question. But that individual may still not be reliable as a security risk, as was stated a moment ago, because of defects in character which subject him to the danger of blackmail. It is in blackmail mainly, not in the greed of the individual as such, that espionage among non-professionals takes place. That was so in the Vassal case in the United Kingdom. It is a fertile field for recruiting by the U.S.S.R., where public servants are known to be the companions of homosexuals. Those are the people who are generally chosen by the U.S.S.R. in recruiting spies who are otherwise loyal people within their countries.

The fear of exposure, the danger that all of us feel that something in our past might be revealed, have a tremendous effect on the mind of the potential spy or the prospective dispenser of security information to the U.S.S.R. The human element is involved. Someone is brought before you who is suspected. He tells his story. If the story is an admission it is generally accompanied by the statement of the individual in question that he meant no wrong, but was acting in self-defence for the preservation of his reputation. Within our own country, in the time when I was prime minister, I do not recall any case in which the activating reason for participation by the individual was monetary gain. The promise of monetary gain from the U.S.S.R to prospective spies is small indeed. The rewards are small and the dangers are great.

What can be done? The Prime Minister has reviewed this at length and in a dispassionate manner. When the Minister of Justice says this just began with this administration, he forgets we worked on it for

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several years. We endeavoured to bring about a system which primarily would preserve to the highest degree possible the safety and security of the state while maintaining the rights of the individual.

My life has been in that field, in the preservation of the individual's freedom. Mention was made of universities. You come to a point when, if you challenge my right to think as I will, you destroy democracy. Freedom is never the right to do wrong: Freedom is the right to be wrong. In other words, no matter whether I am a minority of one within the state, so long as I keep within the law and do not endeavour to undermine the state by overt acts, I have the right to advocate that thinking. That is one of the reasons that when people spoke about outlawry of communism I stated it could not be outlawed. It could be inlawed; but you cannot outlaw a philosophy unless overt acts foul the thought of the individual. If you start outlawing the right to think, no matter how strongly you feel about that, you place everyone who is associated with the communists in the position where they must prove to the court that they are not communists. When I came into the House of Commons we had as a member here one who was afterwards convicted of espionage, a communist. If we had had a law outlawing communists, everyone in this House of Commons at that time would have had to prove that, having been associated with this man, they had not suffered from communism osmosis in consequence. That is the danger of these short cuts.

It would be easy to be critical of the plan that is offered this evening. I believe, on the basis of my experience, that the measures proposed by the Prime Minister go a long way to bringing into alignment the security of the state without endangering the freedom of the individual. I feel, and I have felt, that this matter might have been studied by a committee of the house. I realize the danger in that connection, because no matter how a thing is designated in the various orders of top secret, secret, confidential or restricted, the difference between top secret and restricted is too often simply a question of whether a matter appears in the press today or three weeks from now. It is a strange thing how matters that are designated as top secret very soon find their way into the public press.

I feel, too, that in the measures announced the individual will have an opportunity of making known his defence. The step is taken officially that previously was followed unofficially. The individual has had that right, not in consequence of a declaration made in the House of Commons but as a result of its being a rule of practice, without which freedom might very well be denied to an individual. The review of the evidence by a separate body, with the individual having the right to give his side of the case, should go a long way to avoiding and preventing injustice. The setting up of a board of review taken from the membership of the security panel—as I understand the Prime Minister's statement—is a step forward; but I do not think it goes as far as it should. Here you have the security panel, the representatives of the various departments of government. They are the ones who actually examined the case as against the individual. They are then going to sit on appeal, as it were, on the same case that they judged or that certain ones of them judged. I have never been particularly successful in the court en banc when the same judge who sat on the trial sat on appeal in the court en banc. Even though there were two others present with him, his influence was fairly effective.

I do not know the degree to which the government has given consideration to this matter. I felt, when we were considering it, that in setting up a board of review to assure that the individual may not only have justice done to him but may feel that justice is done to him, the board of review should have presiding over it a judge of the Supreme Court of Canada or the President of the Exchequer Court of Canada. It will not take up much of their time. It is a contribution that I am sure either judge would be willing to make. There are not many cases; but when justice is the issue, the number is not of importance. The question is justice being done?

I think, agreeing as I do with the desirability of the action being taken along the line indicated by the Prime Minister, representing as it does the study that we made in the past few years, the accumulation of information on the subject, discussions with the minister of justice and by the minister of justice with the commissioner of the mounted police and other law enforcement officers, to add a judge would have a great effect, a major effect in assuring that this board of review, in the findings it would make, would have the benefit of the viewpoint of one who would be entirely detached from the membership of the board and would be able to give to that board experience and knowledge which would be beneficial.

Having said that, Mr. Chairman, may I conclude by saying what I began by saying, that I know the weight of the responsibility that is on the Prime Minister in matters like this—this matter above all. He cannot put it

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on somebody else. He in his person has the custody of our survival and our security. In the views he has placed before the house he has been given the benefit of the study that was made by dedicated public servants whose purpose was to assure that justice shall be done. *Fiat justitia ruat coelum*—"Let justice be done though the heavens should fall".

Mr. Brewin: Mr. Chairman, may I say at once that we in this party welcome the statement that has been made by the Prime Minister. We believe it represents a step forward in dealing with an extremely important and very difficult subject. We believe that the statement constitutes a recognition of the very grave hardships done to individuals by the mistaken application of security procedures. I think that this recognition no doubt owes something to the liberal—and I use the word with a small "l"—tendencies of the Prime Minister and some of his colleagues. I should also like to say that it owes a good deal to the vigilance and effectiveness of the members of the house who, despite official discouragement from time to time have insisted on bringing this matter and individual cases to the attention of the house. I think, for example, of the Knott case where, if it had not been for the persistence of the hon. member for Nanaimo-Cowichan-The Islands the case would have died on the files and a young man dismissed or discharged from the navy in the mistaken belief that his uncle was a communist, as though that had anything to do with the matter. While we welcome this statement we have serious reservations about the effectiveness of the methods and the tribunal which is proposed. Our basic criticism is that this tribunal remains an internal tribunal. It is not a judicial tribunal.

The Prime Minister has given reasons why the government decided not to have a quasi-judicial tribunal, and I acknowledge at once that the ordinary method of appeal and trial is not suitable to the determination of security cases where it is impossible to confront the person affected with all the information. But, Mr. Chairman, I know of a precedent which was adopted in wartime which I suggest could and should have been adopted here. During the war the minister of justice, acting under the powers conferred by the War Measures Act and the defence of Canada regulations, found it necessary to intern quite a large number of individuals, sometimes on mere suspicion. After public representation it was found possible to set up a tribunal, which was not a tribunal of civil servants or department heads or within the structure of government, but included, as I recall it, a member of the judiciary who was free, and bound to be free, from the necessity to consider the internal or departmental matters and who was able to apply a clear judicial judgment to the problems which came before him. Security, of course, prevented the disclosure by the minister of justice of that day of the details and sources of information against the internees, but the outline of the case was disclosed. The internee had the opportunity to give to this independent tribunal his side of the case, and as a result of that many persons were released from the internment camps and a continuing injustice was remedied. If this can be done in wartime, Mr. Chairman, I ask why a similar quasi-judicial tribunal cannot be set up in peacetime, when the jobs and reputations of Canadians are secretively snatched from them by the present procedures we adopt.

There are other reservations in our minds as to the announcement which has been made. For example, we are concerned whether the protection is extensive enough. Most members of this house are familiar with the large number of cases of refusal of citizenship, of refusal to allow otherwise qualified persons into the country, relatives of people who are here now; and the very same secretive type of proceedings are adopted whereby they are denied any knowledge of the nature of the case made against them.

As I read this statement it applies to government agencies, but this problem extends far beyond that. These procedures apparently do not apply to the services at all; yet the most notorious case in this field which has been brought to the attention of this parliament was the case of a man discharged from the navy. There are also other bodies and corporations working on security matters who are also given information, and people discharged in such cases lose their jobs and their reputations, and their future is endangered in precisely the same manner as those who are actually discharged from the government service.

While we welcome this statement, we think there are many other questions which should be asked, and I will just mention a few of them. What about the training of the people who do this particularly delicate and difficult security task? I do not know what the training is, but from the results which occur I suggest it is not good enough. I have nothing against the Royal Canadian Mounted Police as a force. I echo, though not with the same eloquence, the tribute paid by the Leader of the Opposition to that force. But in this sensitive field of security I do not believe that the police, including the R.C.M.P., are trained in that delicate political judgment which is necessary to prevent them from making mistakes, and we only know a very small and

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insignificant fraction of all the cases involved. We want to know on what sort of principles the security officers are to act.

I have read with great interest what the Prime Minister said about the fact that in certain cases relationship creates a security risk. Yet, Mr. Speaker, have the principles for applying this been worked out so that we do not get the situation as revealed by the Knott case and many other cases where a remote—indeed in that case a mistaken—relationship was used to debar a person from useful service? Every one of us in this house will probably know of someone who has an uncle or aunt who has attended a communist meeting or might be in the bad books of the R.C.M.P. Are their nephews and nieces to be debarred from public service? It is true the procedure we have here will assist in enabling those cases to be scrutinized, and as I have said I welcome what has been done. But I say to the Prime Minister and the Minister of Justice that although this is a step forward, I think they would do better to avail themselves of tried judicial independent proceedings to solve their problems, as was done by their predecessors in wartime in the last great war.

I am not happy about this tribunal of internal civil servants, no matter how much we may happen to respect them. I give warning to the government that there are many other matters dealing with this field which require to be carefully investigated, and we feel it is our duty as an opposition to bring these cases forward and keep up a continuing vigilance. We are not going to be fobbed off by a tribunal, no matter how much we welcome this as a recognition of the problem. We are going to continue to urge that these matters be scrutinized in parliament and that independent procedures be preferred.

I have a number of observations I wish to make about the estimates generally, Mr. Chairman, but I take it at this stage it would be appropriate to deal only with the matters announced by the Prime Minister and the Minister of Justice.

Mr. Knowles: No, go ahead.

Mr. Brewin: I am encouraged by some of my colleagues in my immediate neighbourhood to deal with other matters affecting the Department of Justice as well. I know that one point I have to make the minister will agree with, if he agrees with nothing else, and that is the Department of Justice over which he presides is a key department, and at the present stage of the Canadian history the leadership of the minister and his department is urgently needed. I hope the minister will demonstrate I am wrong when I say it does not seem to me that he and his department have shown the type of leadership required to do the important task committed to them.

I do not propose to discuss at length the skyrocketing price of sugar. I am aware that the small staff of the combines investigation branch does the best it can. I am also aware, as the minister indicated, that there are constitutional difficulties about controlling the price of commodities. But I must say that the impression given by the minister in answering questions on this subject seems to me to indicate the futility of the present machinery and the lack of decisive will to tackle profiteering in essential commodities.

We live in an age when the ramifications of government are many and growing. The struggle between liberty and authority which characterizes all human societies is unending and is particularly acute at the present time. In this battle, the grievances of citizens who find themselves badly treated by those in authority require, if they are to be remedied, new institutional methods as well as unceasing vigilance on the part of the Department of Justice. We have heard today about one field of these interests but there are many others which are important. One of the pieces of machinery which is being suggested from every side of this house is the creation of a parliamentary commissioner or ombudsman. This proposal has been before the house for some time. Indeed, it is the subject of a resolution sponsored by the hon. member for Port Arthur. I do not propose to discuss this subject at length, but I say to the Minister of Justice that such a commissioner has proved his value overseas in countries where the system has been tried—in Sweden, and, more recently, in Denmark and in New Zealand. The existence of a great bureaucracy is not, in my opinion, a sinister thing. It is inevitable. Most of its purposes are beneficial. But people get hurt by the activities of government. When men of substance get hurt they do not have too much of a problem; they can hire expensive lawyers to defend their interests. But when men of lesser means get hurt by this infinity of regulations and procedures they often find themselves without any effective remedy. What I suggest is needed is an official of parliament who has full power to investigate, to secure the production of documents, to arrange a settlement of grievances where possible and to report to the house. On May 22, the Minister of Justice, in answer to a question of mine, expressed interest but disclaimed responsibility. I should have thought the Minister of Justice had a special responsibility to advise parliament of steps which could be taken to strengthen the civil rights of Canadians and not leave it to the

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often futile procedure of private member's resolutions.

In my opinion there is a still more fundamental responsibility placed on the Minister of Justice, and that is to take the necessary action to protect human rights and freedom by bringing about the incorporation within the constitution of Canada of a bill of rights. This brings me to a question of the first importance facing Canada, a question whose solution demands the leadership of the Minister of Justice. Are we serious in saying, as we approach Canada's 100th birthday, that we intend to repatriate the Canadian constitution? Are we serious in saying we intend to take a new look at it and bring it up to date? Last Monday the minister is reported as having told the Liberal federation of Quebec—I am not certain that I have the name of the organization right—that it was necessary to re-think the whole form of confederation and adapt it to present conditions to ensure specific rights to Quebec and to French Canadians in general. I do not wish to underestimate the importance of giving clear and binding effect to the special rights of Quebec and of French Canada in confederation. But I say to the minister that in taking a new look at the constitution it is necessary for him to consider the rights of all Canadians. It is necessary to bring the new constitutional compact which I hope will be made in Canada and within this framework to recognize the basic rights and liberties of all Canadians so that they shall be immune from attack by provincial and municipal authorities as well as parliament and its agencies. We need a bill of rights composed not only of noble words but having the force of law, with teeth for its enforcement. We now have a declaratory bill of rights, a bill which has been cited over and over again in the courts with no effect. The former prime minister himself described this declaratory bill of rights as a first step. It is about time another step was taken.

What has been done about the re-thinking and adapting of our constitution? On June 19, as reported on page 1326 of *Hansard*, I asked a question about this subject. I asked what steps were being taken or contemplated with a view to having the constitution of Canada repatriated, or what consultations had been held for this purpose. The hon. member for Rosedale, answering in his capacity as parliamentary secretary, said: "None, by the present government." That was his answer. He said:

> No steps have yet been taken, and if and when it is decided to do so, the government will so indicate in due course.

The answer, in short, was a complete negative. Let me warn the minister that this re-thinking and adaptation of our constitution to the needs of the present day cannot be done by a few officials behind closed doors at a hastily summoned interprovincial conference. I have received a statement from Professor Ryan of the University of New Brunswick, president of the association of Canadian law teachers. I am not going to read that statement, though I should like to, but he urges the view of his association that the widest opportunity should be afforded for public representation and discussion before a formula for amendment is adopted by the conference which is proposed.

If the minister faces a much wider task than merely finding a formula for amendment; if, as he has indicated, what is involved is the re-thinking and adaptation of the whole form of confederation, these remarks apply even more clearly. I suggest there is no time to be lost in instituting the necessary process of public discussion and consideration which will involve not only government officials, but Canadians in every part of the country, members of opposition parties as well as of government parties, and people of all occupations.

I come, now, to another serious matter, which I have already discussed with the minister and which, in my view, gravely affects the administration of justice.

The high and unsullied reputation for integrity enjoyed by our judges is one of the foundations of our system of justice and, indeed, of any civilized system of justice. But now, in public statements in the press and in the legislature of Ontario, implications have been made affecting the integrity of a justice of the supreme court of Ontario.

It is necessary for me to go back in time to give the house the background of what I have to say. In 1958 an investigation was made into the manner in which northern Ontario natural gas issued stock at advantageous prices to public officials to promote its interest in Ontario. As the result of the investigation three ministers of the crown in Ontario resigned. At that time, Mr. MacDonald, a member of the legislature told the legislature in considerable detail that a block of 14,000 shares of stock had been issued to a company known as Continental Investments and used to secure approval by certain municipal officials in some northern Ontario town of the granting of franchises to northern Ontario natural gas.

This matter was inquired into by the Ontario securities commission and the then attorney general, Kelso Roberts, stated in the legislature that there had been no impropriety in relation to the issuing of the stock.

Last year, however, more information was discovered by the B.C. securities commission. Further investigation was made at Mr.

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Roberts' request. In April of this year Mr. Roberts, the former attorney general, stated in the legislature that a politician in a municipality doing business with northern Ontario natural gas got the major part of the 14,000 shares at a nominal cost. Mr. MacDonald in answer to inquiry, named Mr. Justice Landreville as the official involved. Mr. Justice Landreville before his appointment as a supreme court justice in 1957, was the mayor of Sudbury. He was appointed shortly after the franchise was granted. The new report of the commission was made available to the present attorney general of Ontario, Mr. Cass and, presumably, to the government of the province in July. Mr. Cass caused proceedings to be instituted—

Mr. Chevrier: Mr. Chairman, I rise on a point of order. While it is true that the hon. member did give me some indication he was going to do exactly what he is doing now, I submit to you with deference, sir, that it cannot be done under the rules unless the hon. member is prepared to move for the impeachment of the judge he has in mind. I refer to citation 149 of Beauchesne, 4th edition, which reads as follows:

> Besides the prohibitions contained in standing order 35, it has been sanctioned by usage both in England and in Canada that a member, while speaking, must not:
>
> (j) cast reflections upon the conduct of judges of superior courts, unless such conduct is based upon a substantive motion.

Unless the hon. member is prepared to move a substantive motion I am afraid he is in contravention of this citation.

Mr. Brewin: Mr. Chairman, on the point of order, I want to make it clear, and it would have been made clear in a few sentences if I had been able to do so, that I am asking that this matter be investigated, not because I make any charge or accusation against the judge but because others have done so and I believe it to be in the interests of the administration of justice and in the interests of the judge concerned that this matter be cleared up. All I propose to ask is that the Minister of Justice do what I believe to be his duty in the circumstances, and that is to institute a full inquiry into this particular matter.

I am not making any accusations. As the matter will develop, it will be made perfectly clear that I believe the judge is entitled to every presumption of innocence. But I wish to point out that this matter has been raised and reported upon in publications, newspapers and national magazines and I say it is only fair to the justice involved and to the whole administration of justice that it be cleared up by the minister at the earliest opportunity.

I say that the citation from Beauchesne to which the Minister of Justice has referred does not deal with this particular matter. As I intended to say in a few minutes, I sincerely hope and believe that the judge will be able to clear up the imputations made against him, but I say that the minister responsible to the house for the administration of justice has a responsibility to inquire into this matter and that later, if anything is discovered that is derogatory of the judge at all, it will then be the minister's responsibility to make the necessary motion.

In case Your Honour should rule against me on this matter and abbreviate what I have to say to the house, I want to make it perfectly clear that I am only repeating accusations made in responsible publications and spread across the press of the country, and I am only doing so in order to urge the minister to give the judge, through a full and open public inquiry, the right to meet these innuendos and insinuations that have been made against him.

A further point has been called to my attention. I am not saying anything about the judge in his judicial capacity. The events in question took place some months before the appointment of the judge. What I am saying is that the statements made about him constitute a contempt of the administration of justice and that as Minister of Justice the minister has a responsibility to look into this matter. I am not accusing the judge of judicial misconduct. If by any chance the facts are as alleged and the minister finds that to be so on proper inquiry, the time to act will then come and the responsibility will be his.

But, Mr. Chairman, I am not making these accusations. I do not propose to make a substantive motion. This matter has had widespread publicity given to it already. I would have hesitated to mention it if I were the first to raise it, but in view of the publicity given to it I believe I am within the rules of the house in making the proposition to the minister that it is his duty as minister and in the interests of the judge himself to see that this matter is cleared up at the earliest possible opportunity.

Mr. Chevrier: Mr. Chairman, I would not ordinarily rise at this point because normally I believe it is the practice to allow other members to speak before the minister replies. But because of what the hon. member has said I feel it is my duty to rise now and bring to the attention of the house, not so much the fact that the hon. member has repeated accusations made elsewhere, but the fact that by doing so he has impugned the reputation of a judge of the supreme court of this province. While he may say he has made no personal attack on him, the very fact that he has