

Second Draft - 1955

STATEMENT ON SECURITY POLICY AND PROCEDURES

Mr. Chairman, from questions that have been asked by Honourable Members and from the course of the debate concerning the security screening of personnel in the Public Service who have access to secret information, it seems to me that I should now make a rather comprehensive statement on this issue and review not only the policy which is being followed but some of the reasons upon which it is founded. Such a statement will, I hope, remove some of the misunderstanding which seems to persist despite efforts made in the past to explain our stand on this delicate and troublesome subject.

I attempt this full statement with some reluctance, because the effectiveness of security and counter-intelligence measures is usually reduced by providing information about them. The government appreciates the co-operative understanding displayed by Members of this House, and the other place, and in the restraint they have exercised in the handling of this difficult and sensitive subject. Consequently I wish to give the House what information I can about our policies and procedures without endangering the effectiveness of our operations and without creating misleading impressions by revealing only part of certain information when the whole is needed for an understanding. I can appreciate how trying official silence on this vital subject must be to all fair-minded people who would like to satisfy themselves that individuals are not being treated unfairly while the safety of the nation is being assured.

Parliament has defined various offences against the security of the State, in the transmission of secrets, by the Official Secrets Act. Offences



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can be prosecuted under that Act. We have been fortunate that it has rarely been necessary to make such prosecutions. This law, of course, is designed to punish offenders after the fact, whereas the security measures we must follow in the Public Service, and about which I am speaking today, are designed to prevent offences being committed. The danger in the transmission of important defence secrets is so great that primary emphasis must be given to this prevention.

Our preventive measures in the public service are confined primarily in their operation to those in the public service - civil and military - who have access to secret information - classified information as it is called technically. These measures therefore, do not extend to the great bulk of the service who do not have access to secrets, though in practice all or almost all those in key civil and military posts are subject to screening. The Prime Minister described in the House of December 3rd, 1951, our policy and practice in regard to the screening of persons in industry who are to be given access to defence secrets in connection with defence contracts. In addition we co-operate with the United States by screening the seamen employed on our ships on the Great Lakes, to ensure against the danger of sabotage there. Apart from this we do not extend our screening beyond the public service and the scrutiny of immigrants. Nor do we make available our confidential information for others to do so, except in reciprocal arrangements with certain allied governments. Our screening is directed to ensuring the safety of our secrets, not to the censorship or control of the opinions or conduct of Canadians. In addition, of course, our counter-intelligence services are engaged in a constant endeavour to

protect the country against foreign agents, and are preparing all the time to protect Canada against sabotage of various kinds in the event of war.

Security screening in the public service is a matter of administration, or management, not of law. In posts where they have access to secrets, persons in the public service must be reliable as well as competent. Reliability is an essential qualification for appointment or transfer to such posts, and for remaining employed in them. This reliability of an employee is a matter of administrative judgment. It is passed upon in the first instance by the Civil Service Commission, which appoints civil servants, or by other competent appointing authority. It is also passed upon by the department, Force or agency in which the person concerned is to work and which entrusts its secrets to him or to her. This administrative judgment is exercised under the direction of the Minister responsible for the department, and on occasion, particularly where persons are to be removed, by that Minister personally.

In reaching a decision as to whether or not a person is reliable from a security point of view, many aspects of character and personality are involved, which cannot be measured or defined precisely in any rule or regulation. Possible disloyalty motivated by political belief is only one of the risks, though it is of course often the most difficult to detect and the most dramatic and worrying. It is also necessary to take into account various forms of weakness or dishonesty, or mere carelessness, and circumstances that might make a person liable to pressure or blackmail. The agents of foreign intelligence services do not hesitate to exploit any

weakness or circumstance to gain their ends. Theirs is a desperate business, in which the stakes are high and no holds are barred. We must give them no opportunities to take any advantage, against which we can safeguard ourselves.

In reaching these administrative judgments about the character and personalities of those to whom secrets are entrusted, departments and Ministers must use information from a variety of sources and of varying quality. Some of it comes from observation of the man himself and from the usual type of character references that are consulted in employing people. Some of it comes from our counter-intelligence services, obtained at great cost and even at great personal danger to our operatives. Some of it is in the form of confidential opinions from persons whose competence and reliability we must judge - just as in private life many of us must act from time to time on the basis of opinions from those we can trust - and whose confidences we must respect. Some information comes from the ordinary records of the courts and police, not related at all to subversive activities. All these types of information must be secured, appraised and reconciled, and on the basis of it a judgment made as to whether the person in question is reliable.

The making of this judgment is the administrative responsibility of the Minister concerned, with the assistance of his senior or specialist officers. They will on occasion consult with others experienced in such work in other departments, and with the Security Panel. But the final decision is that of the Minister concerned or his department, or of the government in cases of permanent civil servants where an Order in Council is necessary.

The decision on security grounds whether to appoint or retain a person is the same sort of managerial decision that must be made by other employers when they decide who they can trust with their money, their property or their own business secrets. There is no question of civil rights involved or of guilt; it is a managerial decision as to whom one considers reliable. No man has a right to a particular job. One man may be refused an appointment, or released from a job he has held, because the employer has found him to lack ability; another may be refused appointment to, or removed from, a post where he has access to secret information because the employing department is not satisfied as to his reliability. He is not accused of any crime thereby, nor denied any rights. Every effort is made to avoid disclosing the reason why a person has been removed or transferred, in order that his reputation will not suffer. Indeed, the man himself is frequently not told for in many cases we must refrain from telling him the information on which we base our decision that he is unreliable in order to protect the responsible sources from which that information was obtained. This would not be justified if we were accusing him of an offence and proposing to punish him. But that is not the case; we are simply exercising the normal right of an employer to decide as to whom he will place or retain in a position of trust.

An understanding of the true nature of this action is important in deciding whether there should be some sort of review or appeal tribunal. If the person concerned were being accused of an offence, there should be some sort of appeal procedure, as there is in the courts, and as there is, of course, if anyone is prosecuted

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under the Official Secrets Act. But that is not the case in our screening procedures; in them there is no question of the judicial trial of an offence, merely executive judgment as to reliability.

If someone has been transferred or removed from a post in the public service and believes that he has been wronged or is dissatisfied with the explanation given him, he can through various channels have his case brought again to the attention of the Department or of the Minister concerned, either privately or publicly in this House. Re-examinations are often made, and sometimes a decision may be changed; but the decision must still be that of the Minister responsible. In some cases, the material upon which the Minister's decision must be based is obtained from our counter-intelligence services. Such information may be highly relevant and indeed form the main basis of the Minister's decision. Yet, if that decision is challenged, he cannot reveal this information without thereby disclosing its source. Some of those about whose access to our secrets we must be most careful may belong to a widespread network of skilled and ruthless conspirators about which we can gather information only by patient, costly and difficult work, carried on over a long series of years. These conspirators would gladly sacrifice some of their brethren if in the course of explaining their removal the government were forced to reveal the means by which it secured evidence against them.

This necessity to protect our sources of information is the main reason why it is impossible in practice to conduct any sort of appeal board which would be satisfactory to the person who feels aggrieved. Even if a trusted board itself could be given the evidence, it could not be permitted to reveal it to the person concerned

Consequently he could not answer it. Moreover, a person's reliability is not a matter than can be put beyond doubt by rebutting certain formal charges, or indeed that can be brought into doubt only by making formal charges. Assessment of character in some cases must be the governing consideration. Where there is real doubt in the minds of those responsible, it is not possible to give the individual the benefit of the doubt. As has been stated previously, the government simply cannot take the position that defence secrets are to be available to anyone against whom a case cannot be proven. There is too much at stake. Under these circumstances an appeal or review board does not appear to us to have any real advantage over the departmental or ministerial procedures I have already described, where instead an experienced panel can be consulted by the Minister concerned if he wishes to have outside advice, or an independent opinion against which to test his own. Doubtless it would relieve busy Ministers and senior officials of a very unpleasant responsibility if they could entrust this task to some central review or appeal board, but the government has felt that those now responsible could continue to be held responsible and there should be no doubt about who is responsible.

We do have certain appeal procedures within the Civil Service, but they concern such things as the relative merits of candidates for promotion, about which there can be fairly frank discussion. These issues are in no way as vital to the safety of the state as are those present in security cases.

We are aware too that in the United Kingdom there is a central board established to review security cases, but what we have been able to learn about its workings has not convinced us that there

would be an advantage in trying to copy it here. Nor have we felt at all persuaded to copy the procedures followed in the United States. We have no particular predilection for our own methods in this unpleasant business but we think that in their operation they compare not unfavourably with those of other free nations.

There are those who would say that if our practice is the better practice, as we think it is, then why is it that Great Britain has found it necessary to set up an appeal procedure, and, if our practice is the best practice, why is it not used elsewhere. But, of course, it is nonsense to suggest that what is appropriate in one country must necessarily be appropriate in another. Each country must develop the kind of system which it thinks is best adapted to its own set of facts, and that is precisely what we have done.

Now my honourable friends opposite may say this is all very well but how do we know that abuses do not exist under the present system. Well, to my mind, such a question would indicate a lack of appreciation of the Canadian sense of fair play and would overlook as well machinery that is available and is used by any public servant who feels that he has a grievance.

Within the Civil Service there are associations that are very alert to protect the interests of their members and does anyone suggest that these associations would be at all backward in bringing to our attention most forcibly any cases where they thought an injustice had been done? Does anyone suggest that any Canadian public servant, who felt he had been unjustly treated by, let us say, being asked to resign or by being moved to another position, could not or would not go first of all to his own minister with his grievance or, if necessary, to other

members of the government or to members of the opposition and have his case raised on the floor of this House. Then there is another recourse which is open and which citizens of this country do not hesitate to use when they think an injustice has been done them, and that is by drawing the matter to the attention of our free press.

With these safeguards - safeguards which are fundamental in our system - I cannot think that there is any chance of a real injustice being done. Public servants may suffer setbacks but they are setbacks which are part of the normal and proper functioning of our system and they are not setbacks which result from arbitrary or unfair action.

Mr. Chairman, Honourable Members would probably wish me to say something about the Security Panel inasmuch as quite a bit has been written and said in the past as to its "raison d'etre" and the manner in which it functions. It is nothing more than an advisory body which was established in 1946 to aid in good administration. It is not a tribunal. It is not a court of appeal. It does not give orders. It does not dismiss or does it transfer civil servants. It is merely an interdepartmental committee whose membership includes ex officio, as I think is now fairly common knowledge, senior officers of the departments most concerned with security. Its function is to study security problems and to advise on them. The Panel is occasionally consulted by a Minister or department concerning particularly difficult individual cases but, in such instances it merely studies the particular case and gives advice. The final decision as to how the case shall be dealt with rests with the

Minister or department concerned. There have been many informed and misinformed guesses as to the identities of Panel members. I have, however, no intention of revealing those identities because I think it is undesirable that our discussions in this House should involve particular individuals in the government service. Moreover, while the decisions of the Government are very much the concern of this House and of the Canadian people, the manner in which the government seeks advice and comes to a decision is traditionally the government's business. That is a fundamental principle of our constitutional processes which has long been established and recognized both here and in the United Kingdom.

Honourable Members have from time to time expressed concern that when security decisions are made individuals should be fully protected against unfair treatment, and that the responsible Minister should be given sound and wise advice. The government is equally concerned for the protection of the individual, and to illustrate this I should like to quote what was said by a senior security officer to a group of departmental security officers during one of the courses that are held for these officers from time to time. On this occasion, speaking of recommendations on security cases, he had this to say: "It is not easy because we must bear in mind what far-reaching effect such a decision may have on the life of the person concerned. As you will know, when a person is removed from access to classified information we often go out of our way to see that he is employed elsewhere at the same salary and that, provided he is working on non-classified material, his career, financially at least, does not suffer. But I think it is very important for us to bear in mind that even

though the person may continue to earn a comparable salary it may well be that it will no longer be in the career which he originally chose for himself and for which perhaps he studied very hard. This would be a very serious thing to do to a man's life for a simple doubt. But the dangers to Canada are now such that this doubt has to be resolved in favour of the nation. It therefore follows that it is essential for us to exercise the utmost care to ensure that a real doubt does in fact exist. And in considering these doubts we must also bear in mind that if our advice is a wrong one it may serve to push a waverer who otherwise may have led a good and useful life over into the Communist camp."

That is the end of the quotation and it is, I think, judicious advice which hon. Members would wish to be given to departmental security officers. I think it is advice designed at once to protect the security of the country and to preserve the fabric of a civilized society. I trust that this one example which I feel free to give may help to allay the concern which has been expressed on this aspect of security measures in the Public Service.

I come now to a very different aspect of this whole problem. How successful is our security programme? Well I submit that the success or failure of security measures cannot be assessed by a mathematical count of the persons who may have been dismissed from or transferred within the Public Service. The real answer can only be supplied by the heads of certain foreign intelligence services, and if they were to make this information available I doubt if they would retain their present exalted if uneasy posts for very long. Statistics on dismissals and transfers will not give us the measure of our success or failure. If

our original selections were perfect, there would be no dismissals or transfers. If our subsequent reviews were useless, there would be none.

But perhaps even more important than this is the fact that if the figures alone were to be made public without the background in each case they would cause endless speculation and would in fact be profoundly misleading. In one or two cases they would almost certainly lead to the identification of the persons concerned, and it is the policy of this government that persons concerning whom it may have doubts should not have their futures ruined.

There have been questions in the past in this House as to reasons why, in 1950, certain information was given as to the number of security dismissals or transfers in two Crown agencies. In that regard, I would like to say that on March 29th, 1950, the then Minister of Resources and Development gave the number of persons who had at that time been separated from the Film Board on security grounds. In this case an exception to government policy was made because the security of an agency, over 99% of whose employees were loyal, had been the subject of much speculation and publicity. Fortunately, the security of government departments and agencies is not normally made the subject of such ill-founded rumours and, therefore, the government rarely finds it necessary to depart from a policy which it feels is best designed both to ensure the security of our defence secrets and to protect individuals against unfair suspicion of disloyalty.

Replies were also given to the Honourable Member for Kamloops by the former parliamentary assistant to the Minister of Trade and Commerce on May 24 and June 12, 1950, with regard to two employees of

the National Research Council who had been convicted of offences under the Official Secrets Act. The government had no objection to giving that information about two persons whose names and whose positions in a government agency had already been made public. The reasons for making these two exceptions to our normal policy were dealt with by me in this House on June 12, 1950.

As was previously suggested in this House, I believe, it would be possible to give a total figure of removals and transfers for the whole Public Service without leading to the identification of individuals. But it would lead to every possible kind of misinterpretation by persons who are not, and in the nature of things cannot be, familiar with the nature of security problems.

I would like to give Honourable Members some hypothetical examples to illustrate my argument.

Let us take the case of a secretary employed in a department which is engaged on non-confidential work. She is considered for a transfer to another post where she will be typing secret documents. A security investigation is made and shows that again and again she has been present at meetings of communist front organizations and been associated with persons known to be communists. There is no proof that she is a communist, but the frequency with which she has associated with communists is such that reasonable doubts as to her loyalty cannot be removed. She is therefore not transferred to the new post where she would have access to secret information but is left quietly in her previous position where, if in fact she is disloyal, she can do no harm. This is a clear security case, but there has been no dismissal and no transfer to be reckoned in any figure of

transfers and dismissals.

I will give another example of the problem before us. How would Honourable Members consider that this case should be counted? An immigrant from a country behind the iron curtain has been in Canada for over five years. He has become a Canadian citizen and his record shows a history of active anti-communism. He is a brave man who escaped from his country of origin with his wife and child only by taking the gravest risks. A number of reliable Canadians are of the opinion that because of what he has suffered he is intensely loyal to his country of adoption. He is a technician of great ability in a field where Canada is short of experts and he is needed for a post where if he is to be of real use, he must have access to secrets vital to this country's defence. But when he left his country of origin he had no alternative, because his first duty was to his wife and child, but to leave behind his father to whom he is known to be profoundly attached. This man, through his father, will be subject to pressure by people who do not scruple to use such vile means of persuasion. It is possible that he could resist such pressures, but it is possible that he could not. No one can tell; and because no one can tell, the government cannot permit him to have access to vital secrets. And when we add up our human beings to provide the kind of figures that have been requested, do we count this man a security risk? In himself, he is not; yet from his circumstances he must be denied access to secret information because of the virtue of filial devotion. Figures become absurd when considered in the light of a case of this kind. And I daresay that no one would seriously suggest that this case could be made a matter for appeal.

I do not wish to weary the House with examples, but in view of the questions which have been asked, I feel that I must pursue this matter further to ensure that the complexity of security problems is clearly understood.

If an investigation of a person leads to the strong suspicion that he is the agent of a foreign power our course is clear. He cannot normally be permitted to have access to the country's secrets. Decisive action can be taken and the danger removed. But how do we assess the case of a person of great ability in the Public Service who, without being a chronic alcoholic, occasionally drinks to excess and thereupon becomes talkative. At such time he is not fit to have knowledge of secret matters because he will speak of them. He must be denied access to such information, but his case can be reviewed later when perhaps it may be found that he has overcome this dangerous weakness. Is this man to be counted in with traitors?

There are unfortunately many human weaknesses which seriously affect a person's reliability although they may not bring his loyalty into any doubt whatever. We all know that a homosexual may be a person of outstanding intellectual achievement whose mental abilities are of great value. But he is subject to blackmail which is a powerful weapon of persuasion and one which foreign intelligence services will use without qualms if it suits their purpose. Therefore, such a person, whatever his abilities, cannot be given information which would make him the target of such attentions. And yet is he to be counted with those who are disloyal?

I referred a moment ago to a person suspected of espionage being removed from a position where he could do damage. But there

may be circumstances where he could not be moved without him or others being alerted to the fact that he was under suspicion. It may be that it is vital to the operations of our counter-espionage authorities that he should not be altered before the net of agents of which he is a member has been fully uncovered. Under these circumstances, we may decide to permit him to continue for some time to serve his masters, at least in minor matters, because it is in the end for the greater good that he should continue unawares. This is a difficult decision and one that can only be made by experts in counter-espionage. If it were made an agent of a foreign power, the most serious security risk that can face us, would not appear in any count of persons dismissed or transferred.

I have reminded Honourable Members of the numerous factors which may give rise to reasonable doubts as to a person's reliability. They range from evidence that one may be engaged in espionage for a foreign power to evidence that another is an incurable gossip who is simply incapable of holding his tongue. They cover the whole field of those human weaknesses which may make a person subject to blackmail by agents of a foreign power; and yet they must include that twist of the human mind which leads a man to betrayal and treason. These things cannot be reckoned in numbers. We cannot do sums with character. We cannot add and subtract treason and weakness.

We must also bear in mind that a decision in any given case will be directly related to the degree

of secrecy that is required, to the risk that is involved. In some cases a man of outstanding technical ability, whose background could perhaps not be fully explored or who might occasionally take a drink too many, might be given access to certain information because the circumstances, in the opinion of a reasonable man, justified it. In other cases where highly secret and delicate information was involved, vital to the country's safety, even the slightest uncertainty might be unwise. Every decision, to be understood, must be related to the circumstances in which it was made.

I trust that these examples have made it clear that a large proportion of those who may have been dismissed from or transferred within the Public Service on security grounds, were so dismissed or transferred for reasons that have nothing whatever to do with their loyalty. Consequently, the government should and does take every precaution to ensure that these people suffer neither in their careers nor in their reputations. If the government were to publish a total figure of security dismissals or transfers it would be meaningless because it would be impossible to relate it to the widely diverging circumstances and considerations that are taken into account in each individual case. Such a figure would therefore serve no valid purpose, and could only mislead.

I have said all that I feel can prudently be said on this subject. I can only hope that it has been sufficient to make it clear to Honourable Members that in Canada we maintain all the security that is consistent with a free and civilized society.

It is not an easy or pleasant task to balance fairness to individuals against risks to the nation.

I earnestly believe that the course of action this government is following is the best that can be devised ^{at present} to ensure respect for the former and protection for the latter.

I shall be glad to get the views of Honourable Members in any quarter of the House on this issue and to give serious consideration to any suggestions that appear likely to be of any possible help in grappling with the realities of this unpleasant business. I very much regret that history has brought us to a point where we must have many defence secrets and where security considerations may preclude competent and even brilliant people from playing their full part in the Public Service. But such is unfortunately the case today and must apparently continue to be the case for some time to come.

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Addition to the main statement - to be used depending on circumstances:

Finally, lest what I have said seems to represent only the official Government view, let me in support of that view invoke the opinion of a distinguished Canadian, unhappily no longer with us, but who in his lifetime not only possessed one of the clearest, most penetrating minds of his time but was also perhaps the greatest exponent of civil liberties in Canada, the late Dr. B. K. Sandwell.

This is what he wrote in the March 20, 1954, issue of the FINANCIAL POST:

"SURELY THERE IS A GOOD DEAL of fuzzy thinking going on about the right of an employed person to the continuance of his

"employment, especially in the particular case where that employment is closely involved with the security of the state.

"Today we are so fuzzy about this problem that we have simultaneously the spectacle of a United States senator demanding, not the mere cessation of employment, but the grave penalty of ignominious discharge, for the person in military service who has never been found guilty of any offence beyond invoking his constitutional right to refuse to answer certain questions. We also have the spectacle of a number of Canadian politicians demanding the setting up of a sort of judicial body to try the cases of persons who the Government has ceased to trust sufficiently to continue them in confidential employment. The idea at the back of each of these attitudes seems to be based on a misapprehension as to the nature of confidential employment and the proper method for its termination.

"Whatever may be the case about ordinary employment, it seems to me that confidential employment of almost any kind, and certainly confidential employment involving security risks, MUST be terminable at the discretion of the employer. That means that it must be terminable for causes falling far short of proven misconduct, and on evidence falling far short of anything which would convict in a court of law. Termination of employment must not be regarded as a penalty, from which the employee must be protected so long as he is not duly tried and convicted. That termination of employment can be a very serious detriment is true and unavoidable, but that is a risk which the security-risk employee

accepts as a condition of his employment. And I may add that termination of employment would be a far more serious blow to the employee if it were known to be possibly only after a form of trial and a sort of conviction than when it is known to be the result merely of the discretion of a Government department or committee.

"The introduction into this relationship of the idea of a LEGAL or near-legal right of the employee to continuance in his job so long as he is not proven guilty of misconduct in a trial in which he is faced with his accusers and shown all the evidence (as is perfectly proper and wholly necessary in a criminal proceeding) seems to me to bode no good either to the employees or to the state which so imperatively needs the ability to have perfect confidence in its servants. On the other hand, to proceed WITHOUT A TRIAL to strip an officer of his rank and run him out of the army, as Senator McCarthy demands, is the precisely opposite error, of imposing a heavy punishment where all that is called for (if even that is called for) is the cessation of employment, which is not, I repeat, a punishment."