

March 10, 1967.

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MSM

Commission on Security

As I mentioned to you yesterday, I accompanied Mr. Robertson to a meeting with the Commission under reference. Messrs. O'Neill and Trotman were present.

2. At the outset, Mr. Robertson explained that there was no question that the Commissioners had full right of access to any files they wanted. He pointed out, however, that in practice they were unlikely to be able to look at every single file and it was therefore a question as to how they might want to exercise their right. He referred to the general adherence among those who were concerned with security matters to the "need-to-know" principle. He thought that the Commissioners might also have regard to this practice as unrestricted examination of the files created risks which the Commissioners might not wish to take in relation to people who had left the Service and were now re-adapted in other walks of life.

3. I then had occasion to intervene to explain that one of the chief concerns I had related to those who had left the Service for homosexual activities and who were extremely sensitive to the idea that their cases might be re-opened or re-examined. I stressed to the Commissioners that I did not intend to suggest that these people would be jumping off the roof of buildings all over Canada but some of them could be so exercised and concerned at the idea that their file had been looked at that some pretty serious consequences could not be altogether excluded. The Commissioners seemed to appreciate the importance of this point and appeared to be willing to exercise very great restraint in examining this kind of case. Throughout the meeting, I reiterated that these were cases where I thought that names had better be left out. I was shown the précis which had been prepared on three cases related to our Department. At first, I thought there was no problem about any of them but later I indicated, particularly to Mr. Pratte, that I felt that the case relating to [REDACTED] was one where I felt it was better to leave the name out. I guessed, however, the name of the man and in the case of this particular man, I was reasonably confident that there would be no adverse reaction if it came to be known that there had been an examination of individual security cases. The general point I was making, however, was that while Commissioners

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had unrestricted access to files, if they could present their operations in such a way as to allow us to say to people whose case might be involved and enquired about this, that their own particular case had not been investigated, I thought we had a reasonable chance of containing the situation.

4. I went on to explain that our Department, being scattered all over the world because we have missions in a large number of countries and our people pose attractive targets because they handle classified information, we relied perhaps more than other departments on written reports and appreciations submitted by Heads of Missions on a confidential basis. Over the years, these reports have been prepared on the assumption that they would not be available to third parties. It was therefore important for me to be able to maintain that there had been no large-scale examination by the Commission of these reports. There was acknowledgement, I believe, by the Commissioners that there was some validity in this concern and they indicated that they would wish to stress that while they had freedom of access, they had selected a few cases for their illustrative character with regard to methods, and that their main objective had been to discover how security methods or procedures were working rather than to review individual cases. Again, I stressed, in a Department like ours the merit system could only work if the confidence of Heads of Missions was not shaken in the protection that had to be provided for their reports. As an example, I said that if, for instance, our Ambassador in Berne were to report on his Commercial Counsellor and I gave that report to Mr. Warren, Mr. Warren might not agree with me. He could mention this to his Minister and the Ambassador in question could find that his next appointment could be made very difficult. At this point, I explained that unlike what happens in other departments where only the Deputy is a political appointee, and he gets his appointment from the Prime Minister himself, in our Department the normal expectation is to become a Head of Mission and this can only be achieved if the full Cabinet is in agreement. At this point, Mr. Mackenzie said that he saw the problems if Heads of Missions for these considerations were not reporting fully and frankly on*behaviour of their subordinates whether they came from External Affairs or from other departments. I replied that there was no question about Heads of Missions reporting frankly but we had to protect their confidence and this was done by the appointment of inspection teams and through other means. In the end, the necessary action was taken and yet the personal interests of the reporting officers were not compromised.

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5. Mr. Robertson then enquired as to how in practice the general lines of the agreement which seemed to be emerging could be carried out. The members of the staff of the Commission suggested that perhaps they should first discuss with departmental Security Officers a number of cases. At this stage, it would be

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necessary to discuss names. Once a number of names or typical cases were adduced, the members of the staff of the Commission would then, in consultation with Security Officers, effect a selection of individual files which would be submitted to the Commissioners. These files would have to be removed temporarily from departments and taken over to the Commission. The Commission staff would explain the significance of the case to the Commissioners. If necessary, the files would be shown to the Commissioners and when appropriate certain documents or certain elements of the files could be copied out for ulterior purposes, e.g. the writing of the reports or for ready reference. The Commissioners, however, recognized that some of the cases selected by their staff might raise difficult problems for the Department. The Commissioners indicated that at that stage they would be prepared to listen to arguments from the Department and in particular from myself as to why they should not press to examine in detail that particular file or that particular case but should look to another one also typical of the problems arising in the same area. They did not commit themselves to accepting departmental representations but they stressed their willingness to consider reasonable representations or objections.

6. My impression is that the Commissioners have a growing appreciation of the kind of problems that have been worrying us and while they wish to be in a position to say that they had unrestricted access to files, it does not seem at the moment that it is their intention to implement this right regardless of other considerations. In any case, their problem is not to look at a large number of files but merely to consult or become familiar with individual cases in such numbers as will illustrate to their satisfaction how particular procedures or methods are operating. They understand that the way they will put this in any report they give to the public will have considerable significance.

7. My other impression is that while the Commissioners have mellowed a bit, they are absolutely unbending on their right of access and their staff have as a consequence felt in a position to insist that they should have a say in the selection of typical cases and that they should be entitled to transfer physically certain files from departmental custody to the Commission for short intervals.

8. I believe that this is an accurate recollection of what transpired in the course of the meeting but for greater certainty I propose to check this with Mr. Gordon Robertson. If he has additional comments I will let you know.

M.C.