

SUPPLY

The house in committee of supply, Mr. Batten in the chair.

At six o'clock the committee took recess.

AFTER RECESS

The committee resumed at 7 p.m.

The Chairman: Order. House again in committee of supply, on the estimates of the Department of Justice, vote No. 1.

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 to 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

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 per-

[Mr. Pearson.]

son 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. Advice 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

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.

[Mr. Chevrier.]

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

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.

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

[Mr. Chevrier.]

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.