

OCTOBER 25, 1963

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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 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

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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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en): Order. I for the con- business has six o'clock go into com- for the busi- ven o'clock.

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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 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.

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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, he 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 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