

P-50-2(b) OFFICIAL 1952-56
PRIVY COUNCIL - Law and Practice - 1953-56
Emergency Powers Legislation

TOP SECRET

FILE No. P-50-2(b)

~~1952~~-53-54-56

PRIVY COUNCIL OFFICE
CANADA

SUBJECT

PRIVY COUNCIL

Law and Practice

Emergency Powers Legislation

Official

CROSS REFERENCE SHEET CONFIDENTIAL

Name or Subject

File No.

PRIVY COUNCIL - Law and Practice - P-50-2(b)
Emergency Powers Legislation - Official Offl.

Regarding

Date

Referring to previous correspondence exchanged February 10, 1956 with Department of National Defence, of concern to the RCAF, re establishment of regulations for the control of illumination prior to the formal declaration of an emergency - advising of inability to find a satisfactory solution to it and suggesting it be placed on agenda of Civil Defence Policy Committee for consideration at a future meeting - advising problem would appear that there is no question about the authority to provide for the control of illumination under the War Measures Act once an emergency is declared and asking if there is any authority vested in the federal government which would permit any federal authority to order steps to be taken for the control of illumination prior to the issuance of an order declaring a state of emergency to exist - referring to previous procedure prior to the repeal of the Emergency Powers Act -

SEE

Name or Subject

File No.

Dr. G.F. Davidson to R.B. Bryce

D-100-1(b)
Offl.

1954

Ottawa, June 18th, 1954.

MEMORANDUM FOR FILE

Monitoring of subversive telephone
conversations

The Minister and Deputy Minister of Justice saw the president, Mr. Eadie, and the general counsel, Mr. Munnock, of the Bell Telephone Company in Montreal last Friday, June 11th, and discussed with them the best means of providing alternative authority to continue the substance of Order in Council P.C. 3486 of July 4th, 1951, in force despite the lapsing of the Emergency Powers Act - the authority under which it was originally made.

Mr. Munnock had for some time contended that sufficient authority for the purposes set out above was contained in section 382 of the Railway Act. On the other hand, the Ministers and officials concerned with this matter felt that section 11 of the Official Secrets Act probably provided at least as good, if not better statutory authority for the monitoring of telephone conversations. It was further pointed out that if the government availed itself of the provisions of section 11 of the Official Secrets Act in this instance, it would be remaining within the spirit and intent of that legislation whereas it would be difficult to contend that this was so if resort were had to the Railway Act.

The legal and other relevant issues involved were made clear to Messrs. Eadie and Munnock by Mr. Carson and Mr. Varcoe during the course of last Friday's meeting in Montreal and it was finally agreed that the Bell Telephone Company would be prepared to co-operate on the basis of search warrants issued under section 11 of the Official Secrets Act provided,-

- (a) that the R.C.M. Police continued to pay rental for the monitoring facilities provided by the company as is presently the case;
- (b) that search warrants under section 11 of the Official Secrets Act would be issued at Ottawa only by the Commissioner (or, in his absence, by one of the Deputy Commissioners) of the R.C.M. Police;

- (c) that these warrants would, in all cases, be served upon the Assistant to the President of the Bell Telephone Company at Ottawa;
- (d) that the Deputy Minister of Justice would forward to the company, for its records, a copy of his opinion as to the legality of the suggested course of action; and
- (e) that officers and constables of the R.C.M. Police would not make known this arrangement to members of provincial or municipal police Forces as this might result in renewed attempts to make use of search warrants under the Criminal Code for the purpose of obtaining evidence relating to illegal book-making operations and other offences under the Code.

There is no difficulty in meeting all of the conditions set out above, except possibly that set out under paragraph (c) above and this is being pursued further by officers of the R.C.M. Police with Mr. Munnock.

Mr. Varcoe has today sent to Mr. Munnock a copy of the legal opinion referred to in (d) above and also samples of the search warrants which it is proposed to use henceforward.

It is expected that within a very few days the search warrants, which were prepared shortly before May 31st last to replace the various ministerial Orders under the secret Order in Council, will actually be served on the telephone companies involved - i.e. the Bell Telephone Company and the British Columbia Telephone Company. The last named company has indicated some time ago that it would have no objection whatever to the course of action we propose to follow.

P.P.

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Copy to be sent to
Mr. Munnoch

June 16, 1954.

MEMORANDUM FOR THE MINISTER OF JUSTICE

You ask for my opinion whether a warrant issued by a Justice of the Peace in the form attached hereto would authorize the Police to monitor conversations passing over telephone wires between persons suspected of having committed or of being about to commit offences under the Official Secrets Act.

Subsection (1) of Section 3 of the Act makes it an offence for a person, for any purpose prejudicial to the safety or interests of the State, to communicate to any other person any document or information that is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power. There is no doubt, of course, that an offence could be committed by telephonic communication.

Section 11 of the Official Secrets Act provides that where there is reasonable ground for suspecting that an offence has been or is about to be committed a Justice of the Peace may grant a search warrant authorizing the search for and seizure of anything that is evidence of an offence having been or being about to be committed.

Since the communication of information of a certain kind and in certain circumstances constitutes the offence which Section 3 of the Official Secrets Act is designed to prevent or punish, it must be assumed that Parliament had in contemplation when enacting Section 11, every means of communication, including telephonic communication, and when it provided for the granting of the search warrant as provided in Section 11, it appears to me to be abundantly clear that Parliament authorized the issue of a search warrant in the form attached for the purpose of intercepting suspected communications. In my opinion, Section 11 authorizes the issue of a search warrant in the form annexed to be utilized for the purpose indicated above.

I am supported in the view expressed by the fact that, while the search warrant provision in the Criminal Code is open to the possible construction that it relates only to tangible evidence, Parliament, in enacting Section 11, employed language which is not open to the construction that it is limited to tangible evidence, since it expressly extends to "anything that is evidence of an offence under this Act," which, of course, would include oral communications.

"F. P. VARCOE"

Deputy Attorney General
of Canada.

WARRANT TO SEARCH

Canada,
Province of Ontario,
City of Ottawa.

To: a
and a
of the Royal Canadian Mounted Police in the said City of
Province of

WHEREAS it appears on the oath of

that there are reasonable grounds for suspecting that an offence under the Official Secrets Act has been or is about to be committed; to wit: that information that is calculated to be, might be, or is intended to be, directly or indirectly useful to a foreign power concerning secret official code words, pass words, sketches, plans, models, articles, notes or other documents, prohibited places or things in prohibited places, or concerning things made or obtained in contravention of the Official Secrets Act, has been or is about to be published, communicated or transmitted by means of the telephone bearing telephone number

installed in:

to agents of foreign powers and to other persons not lawfully entitled to receive such information, for purposes prejudicial to the safety or interests of the State; and that there are reasonable grounds for suspecting that evidence or communications that are evidence of an offence under the Official Secrets Act having been or about to be committed, by the communication, publication or transmission of such information by means of the said telephone, may be found in the premises of:

(hereinafter called the premises);

This is therefore to authorize and require you to enter into the said premises at any time and to search for, seize and record any communication or communications transmitted by means

of said telephone number installed in:

that is or are evidence of an offence under the Official Secrets Act having been or being about to be committed and with regard to or in connection with which you have reasonable ground for suspecting that an offence under the said Act has been or is about to be committed.

Dated this day of A.D. 195 .

Justice of the Peace by virtue of Section 12(1) of the Royal Canadian Mounted Police Act R.S.C. 1952 Chapt. 241.

Canada,
Province of
City of

WHEREAS proof upon oath has this day been made
before me, that the name of
..... to the within warrant subscribed
is of the handwriting of the justice within mentioned,
I do therefore hereby authorize
..... who brings me this warrant
and all other persons to whom this warrant was originally
directed or by whom it may be lawfully executed to
execute the same within the City of

DATED at the City of
this day of 195...

Justice of the Peace by virtue of Section
12 of the Royal Canadian Mounted Police
Act R.S.C. 1952 Chapt. 241.

OFFICIAL SECRETS ACT

INFORMATION TO OBTAIN A SEARCH WARRANT

Canada,
Province of Ontario,
City of Ottawa.

The INFORMATION of of
....., taken this
day of in the year One Thousand Nine Hundred
and who says that
of whom/which believes to be
directly or indirectly associated with a foreign power is
or is about to communicate information by telephone which
is calculated to be or might be or is intended to be
directly or indirectly useful to a foreign power contrary
to Section 3 of the Official Secrets Act, and that such
communications or some part thereof are passing or about
to pass through the telephonic facilities and premises of
..... of

WHEREFORE he prays that a search warrant may be
granted to
..... to search
the said telephonic facilities and premises for the said
communications.

SWORN before me in the day and year first
above mentioned.

Justice of the Peace by virtue of Section
12 of the Royal Canadian Mounted Police
Act R.S.C. 1952 Chapt. 241.

P-50-2(b)

SECRET

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Ottawa, June 10th, 1954.

Mr. A. J. MacLeod,
Director,
Criminal Law Section,
Department of Justice,
O t t a w a.

Dear Allen,

Thank you for sending me the three alternative drafts of possible Orders in Council under section 382 of the Railway Act to continue the substance of the Secret Order in Council in effect.

I am enclosing a counter-draft in which the preamble has been written in such a manner as to stress the defence aspects of the question under consideration.

I hope it will not be necessary to use this method and that you will be successful in getting the company concerned to accept the authority contained in the Official Secrets Act as adequate.

Yours sincerely,

Paul Pelletier,
Assistant Secretary to the Cabinet.

CONFIDENTIAL

ML
Ottawa, May 31st, 1954.

File

P-50-2 (b)

OTL

P-20-4

OTL

MEMORANDUM FOR THE PRIME MINISTER

Orders in Council under the Emergency
Powers Act

This is the last day the Emergency Powers Act will be in force. In case some one asks in the House what is happening to the various Orders in Council still in effect under that Act, I thought you might wish to have the following information readily available.

1. Priorities Control - (P.C. 2399 of May 16th, 1951 and P.C. 3431 of June 28th, 1952).

The Orders in Council passed under the Emergency Powers Act provided for priorities control in the civilian as well as the military field. With the lapsing of the Emergency Powers Act, control in the civilian field will disappear. The provisions of the Defence Production Act are such that priorities control in the military field can be carried out without it being necessary to have any special Order in Council passed.

2. Transport Control - (P.C. 4535 and 4558 of August 29th, 1951).

A bill to amend the Department of Transport Act was given Royal assent last Thursday. Under this amendment it will be possible to make regulations by Order in Council to provide for the continuance of transport control for a period of two years. We have been promised these regulations by the Department of Transport for today and, if they are received, a meeting of the Committee^{of} Council can be quickly called for the purpose of having this Order passed. Even if the Order is not passed today, however, there is not much harm done because transport control is essentially a stand-by measure and no greater harm will be done if there is a gap of a few days during which there are no regulations.

3. Great Lakes Seamen's Security Regulations - (P.C. 2306 of May 22nd, 1952).

You will recall our efforts to get the Americans to

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agree that we might let these regulations lapse with the Emergency Powers Act. This, however, has not proved possible and, as a consequence, an amendment to the Navigable Waters Protection Act has now been introduced in the Senate. One of the purposes of this bill is to enable the regulations to be continued in force for a period of three years. There will obviously be a gap due mainly to our inability to get the Americans to see this matter as we do and which resulted in the bill to amend the Navigable Waters Protection Act being introduced rather late. This is obviously something that you would not wish to speak about publicly in any detail. It seems to me, however, you could say that the government was rather reluctant to continue these restrictive measures which apply to a whole industry under normal peace-time legislation, but that after discussing the matter thoroughly with U.S. authorities, ~~and in order to avoid difficulties of a practical nature for Canadian shipping in the Great Lakes,~~ Parliament was now being asked to give the Governor in Council the required powers for a further period of three years. After the Emergency Powers Act has lapsed and until such time as Parliament may grant such powers to the Governor in Council, the National Employment Service will simply accept any applications that are made voluntarily by seamen for security clearance and seamen's cards but no compulsion will be placed on them to obtain such cards unless and until the necessary powers are granted by Parliament.

as it was not felt that these measures could prudently be done away with at this time.

- 4. Order relating to aircraft pilot licenses and radio operators' certificates of proficiency - (P.C. 4410 of October 30th, 1952).

This Order in Council is being allowed to lapse.

- 5. Operation by U.S.A. of radio stations in Canada - (P.C. 3484 of August 8th, 1951).

A bill to amend the Radio Act, which was given Royal assent last Thursday, will enable U.S. personnel to continue to operate radio stations at U.S. military establishments in Canadian territory. The required Order in Council to amend the radio regulations under the amended Act was passed last Friday.

6. Order relating to wheat storage spaces not eligible for licenses under the Canada Grain Act - (P.C. 5122 of September 26th, 1951 and P.C. 4116 of September 24th, 1952).

This Order is being allowed to lapse.

7. Free admission of personal gifts from Armed Forces personnel abroad - (P.C. 6598 of December 6th, 1951).

An amendment to the Customs Tariff has been introduced to provide for this matter.

8. Control of trade by sea with Continental China and North Korea - (P.C. 1953-604 of April 17th, 1953).

This Order in Council is being allowed to lapse although it will be possible to achieve much the same results under the new Export and Import Permits Act which was introduced during the course of this session.

9. Special Order in Council - (P.C. 3486 of July 4th, 1951).

You are familiar with developments in this connection. Would it not be sufficient to say in Parliament that this Order in Council will no longer be in effect after today and that the government will henceforward have to rely on the authority contained in existing legislation.


P.P.

~~TOP SECRET~~
P-50-2(b)
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Ottawa, May 27th, 1954.

Commissioner L. H. Nicholson,
Royal Canadian Mounted Police,
Trenblay Road,
O t t a w a.

Dear Commissioner Nicholson,

I wish to refer to the discussions which have taken place during the past few weeks concerning the methods that might be followed to continue in force the substance of Order in Council P.C. 3486 of July 4, 1951, after the Emergency Powers Act lapses on May 31st next.

As you know, several possible alternatives were examined. None, however, appeared to be anywhere nearly as satisfactory as a suggestion originally made by Inspector Guernsey that we use the search warrant procedure set out in section 11 of the Official Secrets Act. The legal adviser of the Bell Telephone Company rather took exception to this procedure and expressed the view that the government, in these matters, could act more appropriately and more legally under section 382 of the Railway Act.

Following the last conversation Superintendent Landon and Inspector Guernsey had with Mr. Radie and Mr. Munrook of the Bell Telephone Company, I discussed the matter further with Mr. Carson and Mr. Varcoe.

Mr. Carson asked Mr. Varcoe to look into the purely legal points involved and arrangements have now been made by the Minister for Mr. Munrook to come to Ottawa next Tuesday, June 1st, for the purpose of thrashing out these points with Mr. Varcoe and the other people concerned here. This means, of course, that no final arrangement can be concluded before the Emergency Powers Act ceases to have effect Monday next. In the

circumstances, Mr. Carson would like you to make whatever arrangements are necessary to have search warrants issued now under section 11 of the Official Secrets Act and in the form of the attached draft which has been prepared by the Department of Justice. These search warrants should presumably be issued by yourself or other members of your Force who happen to be Justices of the Peace, but should not be served on the companies concerned until after the forthcoming discussions with Mr. Munro have taken place and final agreement is reached as to the procedure to be followed. The only purpose in having the warrants issued at this time is to provide something on which to fall back in the whoped-for event that something goes wrong after May 31st and before a final decision is reached on the continuing procedure which is to be adopted.

The Department of Justice, I understand, holds the view that one warrant would be sufficient to cover all the organizations and individuals, in any given area, whose telephone communications are to be monitored. Although this may satisfy the law and would undoubtedly save a lot of paper-work and time, it may be found preferable, when final agreement is reached on the procedure to be followed, to issue a separate warrant for each individual or organization concerned as it would then be possible to cancel or to destroy warrants in respect of individuals or organizations whose telephone communications no longer require to be monitored. This would seem to me to be generally more equitable and fairer to the telephone companies and to the individuals concerned. Until a continuing procedure is finally agreed, however, one warrant per area would probably be quite sufficient.

I should perhaps add that Mr. Carson has discussed this matter with the Prime Minister who concurs in the course of action we propose to follow.

I am sending a copy of this note to Superintendent Lemieux for his information.

Yours sincerely,

Paul Pelletier,
Assistant Secretary to the Cabinet.

P-50-2(b) RBIB
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file
J.P.

Ottawa, May 25th, 1954.

TOP SECRET

The Honourable Stuart S. Garson,
Minister of Justice,
O t t a w a.

Dear Mr. Garson,

Following our conversation this morning, I am enclosing a memorandum by Mr. Bryce in which he suggests that a possible way out of our difficulties with the Bell Telephone Company on the question of the monitoring of subversive telephone conversations might be to consider joint use of the powers conferred under section 11 of the Official Secrets Act and section 382 of the Railway Act.

If you think well of this proposal, you may wish to pass it on to Mr. Varcoe as it would probably be advisable for him to have this possibility in mind before he starts discussing this matter with Mr. Muncock.

It seems clear that a majority of the officials who are concerned with these matters feel that the Official Secrets Act is by far the best existing statutory authority that can be used and, from what you told me of your conversation with the Prime Minister, he is inclined to share this view. The monitoring of subversive telephone conversations is obviously within the spirit and intent of the Official Secrets Act. That is not so in the case of the Railway Act. Furthermore, the Railway Act presents the practical disadvantage of requiring an Order in Council which would not be needed if use is made only of the Official Secrets Act.

It seems to me that Mr. Varcoe should probably make every effort to convince Mr. Muncock that section 11 of the Official Secrets Act is the most proper and acceptable answer to our problem and should only fall back on Mr. Bryce's compromise suggestion as a last resort. It would also likely be wise for Mr. Varcoe to draw Mr. Muncock's attention to the very flimsy statutory

authority which the British rely upon in these matters.

I am enclosing an additional copy of this note and of Mr. Bryce's memorandum in case they may be of some use to you.

Yours sincerely,

Paul Pelletier,
Assistant Secretary to the Cabinet.

CROSS REFERENCE SHEET

CONFIDENTIAL

Name or Subject	File No.
<u>PRIVY COUNCIL - Law and Practice - Emergency Powers Legislation - Official</u>	<u>P-50-2(b)</u> Offl.
Regarding	Date
Memo fwding statement on legislative programme of balance of the session - referring to story by the Cdn Press on Prime Minister's statement Apr. 29th re discontinuance of the Emergency Powers Act on May 31st, suggesting announcement by Prime Minister concerning Orders now relying on the Act - stating he is not sure that it would be advisable to make such statement at this time in view of the rather uncertain status for the moment of the Secret Order - outlining manner in which it is planned the other Orders-in-Council listed should be dealt with -	April 30, 1954.

SEE

Name or Subject	File No.
Prime Minister from P.Pelletier (for R.B.Bryce)	<u>P-20-1</u> Offl.

Ottawa, April 30, 1954.

MEMORANDUM TO MR. BRYCE

I saw Dr. Davidson yesterday to discuss whether civil defence might provide a good cover plan for the use of Section 382 of the Railway Act. Inspector Guernsey of the R.C.M.P. came with me. On the whole we think the prospects are quite encouraging.

2. There are two ways in which civil defence might be used:

- (1) The Department of National Health and Welfare already has an agreement with the Bell Telephone Company of Canada made in November, 1951, for the use of certain lines between area defence control centres and provincial key points. A copy of the agreement is attached. You will see from paragraph 15 on page 4 that this agreement can now be terminated by either party at the expiration of at least 3 months written notice. It might therefore be possible to justify an order-in-council along the lines we have in mind to ensure that no possibility existed for the company to withdraw its facilities at a time of emergency. In addition, there is a surprising provision in paragraph 2 whereby the Bell Telephone Company is apparently to act as an honest broker, where necessary, between the Department and other telephone companies or systems in Canada whose facilities

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might also be required. It might be possible to argue that this was not a very firm arrangement, and one which therefore called for legislative authority.

You may feel, however, that it would be undesirable to use this agreement as the basis for a cover plan since it would presume at least indirectly that a minister had made an unsatisfactory agreement. In addition, it has been in force now for nearly 3 years and is quite obviously working satisfactorily. Dr. Davidson, however, thinks that it would be quite acceptable to argue that the agreement appeared to be satisfactory at the time that it was made, but that in the light of present developments something firmer is required.

- (ii) The Department of National Health and Welfare are about to submit to Treasury Board for approval a contract in the neighborhood of \$100,000.00 for the leasing of teletype circuits between Arnprior, Ottawa, the 10 provincial capitals and Washington. The companies concerned in this will be the North American Telephone Company, Canadian Pacific and Canadian National Telegraphs. Dr. Davidson feels that the necessary facilities might perhaps be obtained on this occasion by the order-in-council we have in mind rather than by the kind of agreement that was made in 1951 with the Bell Telephone Company. If this were to be used and made a part

....

of our cover plan, it would be necessary for National Health and Welfare to obtain Treasury Board approval pretty quickly. Dr. Davidson is going to speak to Mr. Deutsch about this and let us know what are the prospects at Treasury Board. He will not mention the cover plan to Mr. Deutsch.

3. May we have your views as to the desirability of either of these procedures.


P. M. D.

c.c. Paul Pelletier

SECOND COPY

MEMORANDUM OF AGREEMENT

BETWEEN

THE BELL TELEPHONE COMPANY OF CANADA

AND

THE HONOURABLE THE MINISTER OF NATIONAL

HEALTH AND WELFARE FOR CANADA

12^d MEMORANDUM OF AGREEMENT made in triplicate this day of November, 1951:

BETWEEN:

THE BELL TELEPHONE COMPANY OF CANADA, a company duly incorporated by Special Act of the Parliament of Canada, having its Head Office at Montreal, in the Province of Quebec, hereinafter called the "Telephone Company",

OF THE FIRST PART,

- and -

HIS MAJESTY THE KING, in the right of Canada, herein acting and represented by the Honourable the Minister of National Health and Welfare, hereinafter called the "Subscriber",

OF THE SECOND PART.

WHEREAS the Subscriber, in the interests of national security, is desirous of arranging for and establishing certain communication facilities and services in connection with its Civil Defence Attack Warning System;

AND WHEREAS the Telephone Company has the equipment, knowledge and personnel necessary to establish such communication facilities and services in its own territories, and has been requested by the Subscriber to arrange for the establishment of similar communication facilities and services in the territories served by other telephone companies or systems, as may from time to time be required by the Subscriber;

NOW, THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS,-

1. The Telephone Company will, as and when requested in writing by the Subscriber, furnish direct connecting facilities (i.e., toll terminals and all necessary associated equipment) to meet the Subscriber's requirements for full period private line service or priority toll message service from the Company's nearest suitable toll office or offices to any Air Defence Control Centre, Target Area Key Point or site designated by the Subscriber located in the territory in which the Company operates;
2. The Telephone Company will, as and when requested in writing by the Subscriber, obtain for the Subscriber from other telephone companies or systems in Canada similar direct connecting facilities between any Air Defence Control Centres, Target Area Key Points, or sites designated by the Subscriber, and the nearest suitable toll office or offices, in territories served by such other telephone companies or systems;
3. The Telephone Company will prepare the necessary practices and procedures to establish an efficient system of Priority Toll Messages for use in connection with the Subscriber's Civil Defence Attack Warning System and will

instruct its operators and other personnel concerned therewith in the use of such practices and procedures;

4. The Telephone Company will communicate such practices and procedures to other telephone companies or systems whose facilities are to be used in conjunction with the Subscriber's Civil Defence Attack Warning System, and will arrange to have such other telephone companies or systems instruct their operators and other personnel concerned therewith in the efficient use of such practices and procedures;

5. The Telephone Company will prepare and furnish to the Subscriber the necessary information and instructions for training the Civil Defence personnel at Air Defence Control Centres, Target Area Key Points and similar sites in the proper use of the communication facilities and services provided under this Agreement;

6. In connection with the Civil Defence Attack Warning System hereinbefore mentioned, the Telephone Company will, as and when requested by the Subscriber, furnish or arrange for, as the case may be, full period private line service specially designed to meet the Subscriber's requirements and equipped with all necessary lines, equipment and apparatus, including special handset instruments and loudspeakers; and will also, as and when requested by the Subscriber, furnish or arrange for, as the case may be, priority toll message service together with all necessary lines, equipment and apparatus that may be required;

7. The Telephone Company will, during the first thirty days after each such communication system for use in conjunction with the Subscriber's Civil Defence Attack Warning System is established in any area or locality, participate with the Subscriber in such tests and practices as may be mutually agreed to be necessary for the satisfactory training of the personnel involved, without charge to the Subscriber for the Priority Toll Calls made in the course of such tests and practices; and the Telephone Company will obtain a similar undertaking from the other companies and systems whose facilities are to be employed in connection with such Warning System;

8. The Telephone Company will, subject to any overriding Government order to the contrary, give or arrange for, as the case may be, the highest priority to the prompt completion of Priority Toll Calls made in conjunction with the Subscriber's Civil Defence Attack Warning System; and to that end it will, if necessary, subject as aforesaid, under conditions of actual emergency (but not, unless mutually agreed upon in specific instances between the Subscriber and the Telephone Company or other company or system concerned, during practices or tests) interrupt, or arrange for the interruption of, existing telephone conversations.

9. The Telephone Company will take all reasonable steps and precautions to protect such of its facilities as are under its control and are used in conjunction with the Subscriber's Civil Defence Attack Warning System from damage and from unauthorized use; and through suitable maintenance and testing procedures, it will provide a standard of reliability in connection therewith that will be in keeping with the national importance of the service; and it will obtain a similar undertaking from the other telephone companies and systems whose facilities are to be employed in connection with such Warning System;

10. It is agreed that in the first instance, the lines, equipment, facilities and services which the Subscriber will require, and which the Telephone Company will provide or arrange for, will be as shown on Schedule "A" hereto attached and forming part of this Agreement, and that the various portions or parts of the lines, equipment, facilities and services set forth therein, except for major installations constructed solely for the purpose and covered by separate contract, may be discontinued by the Subscriber on three months' notice in writing to the Telephone Company;

11. In order that the Subscriber's Civil Defence Attack Warning System may be co-ordinated throughout Canada and integrated with a similar system now in continuous development in the U.S.A., the Subscriber will continue to consult with the Telephone Company with respect to such additions or extensions to the lines, equipment, facilities and services shown in Schedule "A" as it may require; and the Telephone Company will provide or arrange for such additions or extensions as may be agreed upon between the Telephone Company and the Subscriber, and all the provisions of this memorandum of agreement shall apply in respect of such extensions or additions as though they had originally been included in Schedule "A";

12. Save as otherwise provided in Clause 7 above, the Subscriber will pay the Telephone Company for the lines, equipment, facilities and services which the latter provides or arranges for, the lawful rates and charges from time to time in force for such lines, equipment, facilities and services in the localities in which such lines, equipment, facilities and services are provided; where special lines, equipment, facilities and/or services are furnished, for which no lawful rates and/or charges have been established, the Subscriber shall pay for such special lines, equipment, facilities and/or services at special rates which shall be fixed by the Telephone Company in accordance with its established practices and accepted in advance

by the Subscriber. The Subscriber shall pay such rates and charges in accordance with the terms and provisions of the General Tariff or General Regulations of the participating telephone company or system furnishing such telephone lines, equipment, facilities and services, as approved, wherever applicable, by the Board of Transport Commissioners;

13. In order to ensure the efficient operation of the said communication facilities and services in times of emergency, the Subscriber shall initiate and carry out a practice or exercise involving each part of the said communication facilities and services at least once each month after the same have been made available, and oftener, if, by mutual agreement between the Subscriber and the Telephone Company, the results of such practices or tests indicate that additional training of the personnel involved is desirable;

14. All telephone lines, equipment, facilities and services furnished to and/or used by the Subscriber shall be furnished and used subject to the terms and provisions of the General Tariff or General Regulations of the particular telephone company or system applicable to such telephone lines, equipment, facilities and services;

15. This Agreement shall come into effect upon the execution hereof, and shall remain in force and effect for a period of one year from the date hereof, and thereafter until terminated at the expiration of at least three months' written notice given by either party to the other, which notice may be given at any time after nine months from the date hereof;

16. Where notice in writing is to be given by either party to the other, it shall, in the case of the Subscriber, be delivered or sent by prepaid mail to the Minister of National Health and Welfare, Ottawa, and in the case of the Telephone Company, it shall be delivered or sent by prepaid mail to The Secretary, The Bell Telephone Company of Canada, 1050 Beaver Hall Hill, Montreal.

IN WITNESS WHEREOF the parties hereto have executed these presents in triplicate and have affixed their respective seals on the date first above written.

SIGNED, SEALED and DELIVERED)

in the presence of:

George Davidson *Paul Martin*

McMunn

THE BELL TELEPHONE COMPANY OF CANADA
[Signature]
VICE-PRESIDENT

[Signature]
000027
SECL

1975
B. T. Co.
Approved as to form
F.A.B.
Legal Dept.

SCHEDULE "A"

PRIORITY TOLL CALL SYSTEM

<u>P L A C E</u>	<u>E Q U I P M E N T</u>
VANCOUVER	4 Toll Terminals 1 6-Line Single Sided 100 Key Box (incl. Line Equipments) 1 Hand Set - Black
VICTORIA	1 Toll Terminal 1 Hand Set - Black
TRAIL	1 Toll Terminal 1 Hand Set - Black
EDMONTON	1 Toll Terminal 1 Hand Set - Black
WINNIPEG	1 Toll Terminal 1 Hand Set - Black
<hr/>	
TORONTO	8 Toll Terminals Mileage charge 1 6-Line Single Sided 100 Key Box (incl. Line Equipments) 1 3-Line Single Sided 100 Key Box (incl. Line Equipments) 1 Hand Set - Black
HAMILTON	1 Toll Terminal Mileage charge 1 Hand Set - Black
LONDON	1 Toll Terminal Mileage charge 1 Hand Set - Black
SARNIA	1 Toll Terminal Mileage charge 1 Hand Set - Black
SUDBURY	1 Toll Terminal Mileage charge 1 Hand Set - Black
NIAGARA FALLS	1 Toll Terminal Mileage charge 1 Hand Set - Black
WINDSOR	1 Toll Terminal Mileage charge 1 Hand Set - Black
SAULT STE.MARIE	1 Toll Terminal Mileage charge 1 Hand Set - Black

<u>P L A C E</u>	<u>E Q U I P M E N T</u>
WINNIPEG	See Above
<hr/>	
MONTREAL	2 Toll Terminals Mileage charge 1 3-Line Single Sided 100 Key Box (incl. Line Equipments) 1 Hand Set - Black
QUEBEC	1 Toll Terminal Mileage charge 1 Hand Set - Black
ARVIDA	1 Toll Terminal Mileage charge 1 Hand Set - Black
<hr/>	
HALIFAX	3 Toll Terminals 1 3-Line Single Sided 100 Key Box (incl. Line Equipments) 1 Hand Set - Black
SAINT JOHN, N.B.	1 Toll Terminal Mileage charge 1 Hand Set - Black
SYDNEY	1 Toll Terminal 1 Hand Set - Black
GLACE BAY	1 Toll Terminal 1 Hand Set - Black

FULL PERIOD PRIVATE LINE SERVICE

<u>From:</u>	<u>To:</u>	<u>E Q U I P M E N T</u>
Vancouver	U.S. Border (2-Wire Circuit)	Inter-Exchange Channel Local Channel 1 Hand Set - Black 1 Ringing Key
Vancouver	U.S. Border (4-Wire Circuit)	Inter-Exchange Channels Local Channel 1 Hand Set - Red 1 Loudspeaker and Amplifier 1 Press-To-Talk Feature on Hand Set

<u>From:</u>	<u>To:</u>	<u>EQUIPMENT</u>
Vancouver (ADCC) (4-Wire Circuit)	Vancouver (Key Point)	Channels 1 Hand Set - Coloured - Key Point 1 Press-To-Talk Feature - Key Point 1 Loudspeaker and Amplifier - Key Point 1 Hand Set - Black - ADCC 1 Ringing Key - ADCC
ADCC	Toronto (Key Point) (4-Wire Circuit)	Inter-Exchange Channels Local Channels - ADCC Local Channels - Key Point 1 Hand Set - Black - ADCC 1 Ringing Key - ADCC 1 Hand Set - Coloured - Key Point 1 Press-To-Talk Feature - Key Point Inter-Exchange Channel 1 Toll Terminal - ADCC Mileage charge 1 Toll Terminal - Key Point Mileage Charge
"Back-Up" Toll Terminal		
Windsor (2-Wire Circuit)	U.S. Border	Inter-Exchange Channel Local Channel 1 Hand Set - Black 1 Ringing Key
Windsor (4-Wire Circuit)	U.S. Border	Inter-Exchange Channels Local Channels 1 Hand Set - Coloured 1 Loudspeaker 1 Amplifier 1 Push-To-Talk Feature
Sault Ste.Marie (2-Wire Circuit)	U.S.Border	Inter-Exchange Channel Local Channel 1 Hand Set - Black 1 Ringing Key
Sault Ste.Marie (4-Wire Circuit)	U.S.Border	Inter-Exchange Channels Local Channels 1 Hand Set - Coloured 1 Loudspeaker 1 Amplifier 1 Press-To-Talk Feature
ADCC	Montreal-Ottawa (Key Points) (4-Wire Circuit)	Inter-Exchange Channel Local Channels - ADCC Local Channel - Key Point - Montreal Local Channel- Key Point - Ottawa 1 Hand Set - Black - ADCC 1 Ringing Key - ADCC 1 Hand Set - Coloured - Key Point - Montreal 1 Loudspeaker - Key Point - Montreal 1 Amplifier - Key Point - Montreal 1 Press-To-Talk Feature - Key Point - Montreal

From:

To:

EQUIPMENT

"Back-Up" Toll Terminal

- 1 Hand Set - Coloured, Key Point - Ottawa
- 1 Loudspeaker - Key Point - Ottawa
- 1 Amplifier - Key Point - Ottawa
- 1 Press-To-Talk Feature - Key Point - Ottawa

- 1 Toll Terminal - ADCC
Mileage charge
- 1 Toll Terminal - Key Point - Montreal
Mileage charge
- 1 Toll Terminal - Key Point - Ottawa
Mileage charge

ADCC Halifax
(Key Point)
(4/Wire Circuit)

- Inter-Exchange Channel
- Local Channels - ADCC
- Local Channels - Key Point
- 1 Hand Set - Black - ADCC
- 1 Ringing Key - ADCC
- 1 Hand Set - Coloured - Key Point
- 1 Loudspeaker - Key Point
- 1 Amplifier - Key Point
- 1 Press-To-Talk Feature - Key Point

"Back-Up" Toll Terminal

- 1 Toll Terminal - ADCC
Mileage charge
- 1 Toll Terminal - Key Point
- 1 Hand Set - Black - ADCC
- 1 Hand Set - Black - Key Point

ADCC Saint John's
(Key Point)
(4-Wire Circuit)

- Inter-Exchange Channel
- Local Channel - ADCC
- Local Channel - Key Point
- 1 Hand Set - Black - ADCC
- 1 Ringing Key - ADCC
- 1 Hand Set - Coloured - Key Point
- 1 Loudspeaker - Key Point
- 1 Amplifier - Key Point
- 1 Press-To-Talk Feature

Sarnia U.S. Border
(2-Wire Circuit)

- Inter-Exchange Channel
- Local Channels
- 1 Hand Set - Black
- 1 Ringing Key

Sarnia U.S. Border
(4-Wire Circuit)

- Inter-Exchange Channel
- Local Channels
- 1 Hand Set - Coloured
- 1 Loudspeaker
- 1 Amplifier
- 1 Press-To-Talk Feature

Niagara Falls U.S. Border
(2-Wire Circuit)

- Inter-Exchange Channel
- Local Channel
- 1 Hand Set - Black
- 1 Ringing Key

From:

To:

EQUIPMENT

Niagara Falls U.S. Border
(4-Wire Circuit)

Inter-Exchange Channel
Local Channels
1 Hand Set - Coloured
1 Loudspeaker
1 Amplifier
1 Press-To-Talk Feature

This Schedule "A", which is attached to and forms part of the Memorandum of Agreement dated the 12th day of November, 1951, between The Bell Telephone Company of Canada and His Majesty the King, in the right of Canada, represented by the Honourable the Minister of National Health and Welfare, was signed for identification purposes on the 12th day of November, 1951, by

W. Reading

for The Bell Telephone Company of Canada

and on the 7th day of November, 1951, by

George D. Davidson

for The Minister of National Health and Welfare

TOP SECRET

Peter
Would you please
pursue
S.P.

MEMORANDUM FOR MR. PELLETIER:

P-50-2(b)

OTTE

Re: Cover plans for use of section 382

I discussed this with Drury yesterday and find that it would not be satisfactory to try to use the N.D. circuits for this purpose as they have an over-all agreement now with the Association of Telephone and Telegraph Companies in Canada and all their circuitary is covered by this agreement and any exception made or extension made for our purpose would draw considerable attention to itself and not serve as a satisfactory cover.

I would suggest you might discuss with Peter and Bill Crean whether there are any circuits used in the intelligence net which would serve this purpose, although they are not too good as a cover plan because we do not want to reveal them either. Moreover, you might also consider whether the Civil Defence circuits recently acquired could be used. I will speak to Davidson about this in the next few hours.

R.B.B.

29 Apr 54

382. (1) Every railway, telegraph and telephone company shall, when required so to do by the Governor in Council, or any person authorized by him, place at the exclusive use of the Government of Canada any electric telegraph and telephone lines, and any apparatus and operators which it has.

(2) Such company is thereafter entitled to receive reasonable compensation for such service.

CROSS REFERENCE SHEET

TOP SECRET

Name or Subject

File No.

PRIVY COUNCIL - Law and Practice - Emergency
Powers Legislation - Official

P-50-2(b)
Offl.

Regarding

Date

Cabinet Conclusions - Meeting Apr. 29th,
1954 - including:

April 29, 1954

Legislation; programme for remainder
of 1953-54 session

SEE

Name or Subject

File No.

Filed in Safe (Room 227)



SECRET

P. 50-2 (b)
off

DEPARTMENT OF EXTERNAL AFFAIRS
CANADA

REPLY TO BE ADDRESSED TO:
THE UNDER-SECRETARY OF STATE
FOR EXTERNAL AFFAIRS
OTTAWA

OTTAWA, April 26, 1954

Our File No. 11206-40

The Secretary to the Cabinet,
Privy Council Office,
O T T A W A.

I should like to refer to Mr. Pelletier's letter of March 31, 1954, addressed to Mr. Pearson, concerning the recent discussion in Cabinet about the Emergency Powers Act and the various Orders-in-Council which have been made under it and which remain in effect at the present time. In this letter I wish to deal specifically with one particular Order-in-Council, that establishing the Great Lakes Seamen's Security Regulations (P.C. 2306 of May 22, 1952).

2. As suggested in your letter we have now made a further attempt to obtain United States concurrence to a complete discontinuance of the Great Lakes Seamen's Security Regulations. The nature of this approach was discussed orally by officers of this Department with Mr. Pelletier and Mr. Dwyer of the Privy Council Office and it was agreed that we should follow up the informal approach initiated in January 1954 with Mr. Don C. Bliss, the United States Minister in Ottawa.

3. Accordingly, on April 23, officials of this Department (Mr. Wershof and Mr. Kidd) discussed the matter again with Mr. Bliss, who was accompanied by Mr. Mayer of the United States Embassy. In doing this we pointed out that the Canadian Government had now decided to let the Emergency Powers Act lapse on May 31 of this year (at the same time stressing the confidential

nature of this information); and that in view of this there would be no legal basis for continuing the Great Lakes Seamen's Security Regulations in Canada after that date. Moreover we explained that the Canadian Government had, after consideration, come to the general conclusion that an informal arrangement with the companies concerned for carrying on security screening on the Great Lakes would not be satisfactory. Finally, we stressed the fact that the Canadian Government was reluctant to introduce special legislation for the continuation of the present regulations in view of the probable difficulties of justifying such legislation to Parliament in peacetime; although, if there was any impending danger of war, adequate security measures would of course be introduced without delay. In conclusion we mentioned that, since our regulations had been put into effect as a result of joint United States-Canadian discussions, we wished to receive the views of the United States authorities on the discontinuance of the regulations before they actually disappeared. The Canadian Government, however, hoped that the United States Government would acquiesce, in view of the preceding considerations, in the discontinuance of the Canadian regulations.

4. Mr. Bliss indicated fairly definitely that he did not believe that the United States authorities would accept with equanimity a complete disappearance of security screening on the Canadian side. Not only would this be considered by the United States authorities as a serious gap in the present U.S. security programme, but it would raise political difficulties in the United States once the Canadian position was publicly known, which it undoubtedly would be not long after the end of May. At the same time he indicated that he thought the United States authorities would look more favourably on some form of informal arrangement, which previously we had understood would not provide sufficient assurance for U.S. purposes. In this connection he mentioned that he felt sure that the U.S. Coast Guard would be happy to send a senior official to Ottawa to discuss the problem further.

5. Mr. Bliss will try to give us an expression of the views of the United States authorities in Washington within the next two weeks. We stressed the importance of receiving an early

reply, as the legal basis for the regulations would no longer exist in five weeks' time. I think, however, that we can take it for granted that the United States will not concur in our proposal to drop security screening entirely. Furthermore I am dubious as to how definite an answer we will receive from Mr. Bliss. In my view it is more than probable that the United States will suggest that as a next step a senior Coast Guard official should come to Ottawa to discuss the problem thoroughly with Canadian officials. This would hardly prove very helpful unless we intended to try to put into effect some sort of informal arrangement with the shipping companies. In these circumstances it might therefore be desirable now to give further consideration to the passage of enabling legislation for the continuation of the security screening regulations; in your letter you mentioned the possibility of an amendment to the Navigable Waters Protection Act. You may wish to discuss this matter in the interim with the Canadian departments concerned. In the meantime this Department will examine in greater detail the effect which the U.S. Immigration and Nationality Act of 1952 might have on Canadian shipping companies in the event that no form of security screening procedure (acceptable to the U.S. Government) were in effect in Canada after May 31.

6. I am referring copies of this letter to the Departments of Justice and Labour.

R. H. W. W. W.
for Acting Under-Secretary of State
for External Affairs

CROSS REFERENCE SHEET

TOP SECRET

Name or Subject

File No.

PRIVY COUNCIL - Law and Practice - Emergency Powers Legislation - Official

P-50-2(b)
Offl.

Regarding

Date

Cabinet Conclusions - Meeting Apr. 14th, 1954 - including:

April 14, 1954

Control of trade by sea with continental China and North Korea; disposition of Order in Council following expiry of the Emergency Powers Act

SEE

Name or Subject

File No.

Filed in Safe (Room 227)

CONFIDENTIAL

0466

M-15

0466

C-24

0466

K-10

0466

Ottawa, ^{April}~~March~~ 13, 1954.

MEMORANDUM FOR THE PRIME MINISTER

You will recall the discussion that took place in Cabinet on March 25th regarding the disposition to be made of the various Orders in Council passed under the Emergency Powers Act after that legislation ceases to have effect on May 31st next.

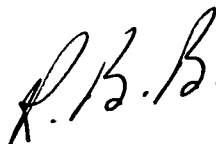
Following that meeting, I wrote to all the Ministers concerned to ascertain whether the disposition to be made of the various Orders in Council, as suggested in my Memorandum to Cabinet of March 24th, met with their approval. It now appears that all these Orders in Council, with two exceptions, can be disposed of with relatively little difficulty.

The two exceptions are the secret Order, with which you are familiar, and the Order in Council controlling trade by sea with Continental China and North Korea (P.C. 1953-604 of April 17, 1953). I wrote to Mr. Howe, Mr. Chevrier and Mr. Pearson about this latter Order in Council as they all have an interest in it. Mr. Howe and Mr. Chevrier have now replied. Mr. Howe has indicated that he does not feel that it is necessary to continue this Order in Council (copy attached) in force after May 31st since there are no Canadian ships trading in China waters and it is not likely that there will be. Furthermore, he feels that the powers contained in the new Export and Import Permits Act (copy attached), particularly Section 15 thereof, provide adequate control over the shipment of strategic materials to Iron Curtain countries. Mr. Chevrier merely indicated that he had discussed the matter with Mr. Howe and suggested that it be brought back to Cabinet for final decision at some convenient time. I thought that this should be done before Mr. Pearson leaves for Geneva next Monday.

You may recall that this Order in Council was passed originally in order that Canada might more fully meet its obligations under the Resolution of Additional Measures adopted by the General Assembly of the United Nations on May 18, 1951. This Order contains very wide powers and provides that no ship of Canadian registry shall proceed to sea from any port, whether within or outside Canada, except under licence granted by the Minister of Transport. Similar control measures were taken by the United Kingdom and the United States and these measures are, I believe, still in effect.

There is no doubt that the powers of control over the movement of these prohibited materials, particularly extra-territorial movements, are more extensive in the Order in Council than in the Export and Import Permits Act. For example, a Canadian ship moving strategic materials from, say, Mexico to North Korea would only be subject to prosecution under Section 15 of the Act if such movements had resulted from some action knowingly taken in Canada, whereas under the broad terms of the Order in Council the skipper of the vessel in question would be subject to prosecution whether or not any action had actually been taken in Canada. However, there are, as you know, very few Canadian ships plying the Pacific Ocean routes. I have ascertained, from the Canadian Maritime Commission, that during the past twelve months only seven Canadian freighters have made one or more trips in the Pacific. Of the seven, four are under charter to the Department of National Defence and are now plying between Japan and Korea. It is understood that this charter will expire in another few weeks and that, at that time, two of these ships, the "Angus Glen" owned by the Lunham & Moore Company of Montreal and the "Lake Minnewanka" owned by the Western Canadian Steamship Company, will transfer to U.K. registry. The three ships not under charter to National Defence made one only Pacific trip during the last twelve months. Two of these trips were to Japan and one to Singapore. One of these ships, the "Royal William", has now been sold to foreign owners and will shortly transfer its registry. Another ship, the "Sunrell" owned by Saguenay Terminals Ltd., will also in all likelihood shortly transfer to U.K. registry. In short, within a very short period of time, of the seven ships that plied the Pacific routes during the last twelve months only three will remain on Canadian registry. Furthermore, as you know, all ships of Canadian registry have headquarters located in Canada. Consequently, it should be possible to take action against such companies, if required, even under the fairly restrictive terms of Section 15 of the Export and Import Permits Act.

In view of the above, it would seem to me that, from the practical point of view, the new Export and Import Permits Act contains everything required to permit adequate control over the movement of strategic materials into Iron Curtain countries, including Continental China and North Korea. If, however, there are political considerations of an international character which make it appear advisable to continue the substance of the Order in Council in force, this could presumably be done by appropriate amendments to the Canada Shipping Act or to the United Nations Act, 1947. Even in this event, however, it would seem to me that a decision on this score might well be postponed until we know what the outcome of the Geneva Conference is likely to be.

A handwritten signature in cursive script, appearing to read 'R.B.B.', is written in dark ink on the page.

R.B.B.



THE CANADA GAZETTE

PART II

STATUTORY ORDERS AND REGULATIONS

OTTAWA, MONDAY, APRIL 20, 1953

SOR/53-138

**Emergency Powers Act—Control of Trade by Sea for Mainland
China and North Korea Order, 1953**

P.C. 1953-604

AT THE GOVERNMENT HOUSE AT OTTAWA

FRIDAY, the 17th day of April, 1953.

PRESENT:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL

His Excellency the Governor General in Council, on the recommendation of the Minister of Transport and in pursuance of the powers conferred by The Emergency Powers Act, is pleased to order and doth hereby order as follows:

1. In this Order:

- (a) "Canadian ship" means a ship registered in Canada;
- (b) "Minister" means the Minister of Transport;
- (c) "North Korea" means that part of Korea which is not, for the time being, occupied by any of the Armed Forces of the United Nations, or by any Armed Forces acting on behalf of the United Nations;
- (d) "port" includes any dock, harbour, pier, quay, wharf, mooring, anchorage or other similar places.

73956

2. This Order shall apply to all Canadian ships having a gross tonnage of more than 500 tons.

3. (1) No Canadian ship to which this Order applies shall, on or after the 20th day of April, 1953, proceed to sea from any port (whether within or outside Canada) except under the authority of and in accordance with a licence granted under this Order by the Minister.

(2) No master, owner or person having the management or control of a Canadian ship shall order, permit or cause any such ship to proceed to sea in contravention of subsection one.

4. The licence required under this Order shall be in addition to any other licence, certificate or authority from time to time required by the law of Canada.

5. A licence under this Order may be general or for a specific voyage or voyages.

6. Any licence granted under this Order may be granted subject to such limitations and conditions as the Minister thinks fit to impose with respect to

- (a) the trades in which the ship may engage and the voyages which may be undertaken by the ship;
- (b) the class of cargoes or passengers which may be carried in the ship to Mainland China or North Korea or within the territorial waters of those countries;
- (c) the hiring of the ship.

7. Every application for a licence under this Order shall be in a form approved by the Minister and shall be made by or on behalf of the person having the management of the ship, in respect of which application for a licence is made.

8. Every person who

- (a) violates any provision of this Order or of a licence; or
- (b) in any application for a licence or for the purpose of procuring the grant of a licence furnishes any false or misleading information or makes any misrepresentation,

is guilty of an offence and is liable on summary conviction or on conviction on indictment to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding five years, or to both fine and imprisonment.

9. Where an offence under this Order has been committed by a corporation and whether or not the corporation has been prosecuted or convicted, every person who at the time of the commission of the offence was a director or officer of the corporation is guilty of a like offence and is liable on summary conviction or on conviction on indictment to the punishment provided for the offence upon proof that the act or omission constituting the offence took place with his knowledge or consent, or that he failed to exercise due diligence to prevent the commission of such offence.

10. Any act, omission or thing that would by reason of this Order be punishable as an offence if committed in Canada is, if committed outside Canada, an offence against this Order and is triable and punishable in Canada.

11. (1) Any proceeding in respect of an offence under this Order may be instituted, tried or determined at the place in Canada where such offence was committed or at the place in Canada in which the person charged with the offence is or has an office or place of business at the time of institution of such proceeding.

(2) Any proceeding in respect of an offence under this Order that is committed outside Canada may be instituted, tried or determined at any place in Canada.

12. This Order shall come into force on the 20th day of April, 1953, and may be cited as the "Control of Trade by Sea for Mainland China and North Korea Order, 1953".

J. W. PICKERSGILL,
Clerk of the Privy Council.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
Queen's Printer and Controller of Stationery, Ottawa.

M 311 1954

CONFIDENTIAL.

First Session, Twenty-Second Parliament, 2-3 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.
THE HOUSE OF COMMONS OF CANADA.

BILL

BILL

An Act respecting the Export and Import of
Strategic and Other Goods.

First reading, 1954.

THE MINISTER OF
TRADE AND COMMERCE.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY

88343

OTTAWA, 1954

000045

THE HOUSE OF COMMONS OF CANADA.

BILL

An Act respecting the Export and Import of
Strategic and Other Goods.

HER Majesty, by and with the advice and consent of the
Senate and House of Commons of Canada, enacts as
follows:

SHORT TITLE.

Short title.

1. This Act may be cited as the *Export and Import
Permits Act*.

5

INTERPRETATION.

Definitions.

2. In this Act,

"Area
Control
List."

(a) "Area Control List" means a list of countries
established under section 4;

"Export
Control
List."

(b) "Export Control List" means a list of goods estab-
lished under section 3;

10

"Import
Control
List."

(c) "Import Control List" means a list of goods estab-
lished under section 5;

"Minister."

(d) "Minister" means the Minister of Trade and Com-
merce, and includes any person authorized by him to
perform his functions under this Act; and

15

"Resident of
Canada."

(e) "resident of Canada" means, in the case of a natural
person, a person who ordinarily resides in Canada and,
in the case of a corporation, a corporation having its
head office in Canada or operating a branch office in
Canada.

20

ESTABLISHMENT OF CONTROL LISTS.

Export list of
goods.

3. The Governor in Council may establish a list of goods,
to be called an Export Control List, including therein any
article the export of which he deems it necessary to control
for any of the following purposes, namely.

(a) to ensure that arms, ammunition, implements or
munitions of war, naval, army or air stores or any

25

articles deemed capable of being converted thereinto or made useful in the production thereof or otherwise having a strategic nature or value will not be made available to any destination wherein their use might be detrimental to the security of Canada.

(b) to implement an intergovernmental arrangement or commitment;

(c) to ensure that there is an adequate supply and distribution of such articles in Canada for defence or other needs.

EXPLANATORY NOTES.

The purpose of this Bill is to revise and consolidate the *Export and Import Permits Act*.

A reference to a section, subsection or paragraph is to the provision in the present *Export and Import Permits Act* that corresponds with the provision that appears in the text of the Bill.

1. Section 1.

2. Section 2.

(a) New.

(b) New.

(c) New.

(d) Section 2.

(e) New. Formerly section 3(2) of the *Export Permit Regulations*.

3. Section 3(1).

(a) New.

articles deemed capable of being converted thereinto or made useful in the production thereof or otherwise having a strategic nature or value will not be made available to any destination wherein their use might be detrimental to the security of Canada; 5

(b) to implement an intergovernmental arrangement or commitment; or

(c) to ensure that there is an adequate supply and distribution of such article in Canada for defence or other needs. 10

Export list of countries.

4. The Governor in Council may establish a list of countries, to be called an Area Control List, including therein any country the export of any goods to which he deems it necessary to control.

Import list of goods.

5. The Governor in Council may establish a list of 15 goods, to be called an Import Control List, including therein any article the import of which he deems it necessary to control for any of the following purposes, namely

- (a) to ensure, in accordance with the needs of Canada, the best possible supply and distribution of an article 20 that is scarce in world markets or is subject to governmental controls in the countries of origin or to allocation by intergovernmental arrangement;
- (b) to implement any action taken under the *Agricultural Prices Support Act*, the *Fisheries Prices Support Act*, the *Agricultural Products Co-operative Marketing Act* or the *Agricultural Products Board Act*, to support the price of the article or that has the effect of supporting the price of the article; or 25
- (c) to implement an intergovernmental arrangement or 30 commitment.

Amendment of lists.

6. The Governor in Council may revoke, amend, vary or re-establish any Area Control List, Export Control List or Import Control List.

PERMITS AND CERTIFICATES.

Export permits.

7. The Minister may issue to any resident of Canada 35 applying therefor a permit to export goods included in an Export Control List or to a country included in an Area Control List, in such quantity and of such quality, by such persons, to such places or persons and subject to such other terms and conditions as are described in the permit or in 40 the regulations.

5. The Minister may issue to any resident of Canada applying therefor a permit to import goods included in an import control list, in such quantity and of such quality, by such persons from such places or persons and subject to such other terms and conditions as are described in the permit or in the regulations.

Import permits

(b) Section 3(1).
(c) Section 3(1).
4. Section 3(2).

Import certificates

10. The Minister may amend, suspend, cancel or revoke any permit, certificate or other authorization granted under this Act.

Alteration of permits, etc.

11. A permit, certificate or other authorization issued or granted under this Act does not entitle any person to obtain any licence, permit or certificate to export or import that may be required under this or any other law or to pay any tax, duty, toll, import or other sum required by any law to be paid in respect of the exportation or importation of goods.

Other lawful obligations not affected

(a) Section 4(1) (a).
(b) Section 4(1) (b).

REGULATIONS

12. The Governor in Council may make regulations (a) prescribing the information and undertakings to be furnished by applicants for permits, certificates or other authorizations under this Act, the procedure to be followed in applying for and issuing or granting permits, certificates or other authorizations, and the terms and conditions, including those with reference to shipping or other documents, upon which permits, certificates or other authorizations may be issued or granted under this Act;

Regulations

(b) respecting information to be supplied by persons to whom permits, certificates or other authorizations have been issued or granted under this Act and any other matter associated with their use;

(c) respecting the issue of and conditions of permits, certificates or other authorizations, and the terms and conditions, including those with reference to shipping or other documents, upon which permits, certificates or other authorizations may be issued or granted under this Act;

(d) respecting the termination, authorization or other control of any in-transit movement through any port or place of any goods that are exported from Canada or of any goods that come through any port or place in Canada;

Import
permits.

8. The Minister may issue to any resident of Canada applying therefor a permit to import goods included in an Import Control List, in such quantity and of such quality, by such persons, from such places or persons and subject to such other terms and conditions as are described in the permit or in the regulations. 5

Import
certificates.

9. The Minister may, in order to facilitate importation of goods into Canada and compliance with the laws of the country of export, issue to any resident of Canada applying therefor an import certificate stating that the applicant has undertaken to import the goods described in the certificate within the time specified therein and containing such other information as the regulations require. 10

Alteration of
permits, etc.

10. The Minister may amend, suspend, cancel or reinstate any permit, certificate or other authorization issued or granted under this Act. 15

Other lawful
obligations
not
affected.

11. A permit, certificate or other authorization issued or granted under this Act does not affect the obligation of any person to obtain any licence, permit or certificate to export or import that may be required under this or any other law or to pay any tax, duty, toll, impost or other sum required by any law to be paid in respect of the exportation or importation of goods. 20

REGULATIONS.

Regulations.

- 12.** The Governor in Council may make regulations.
- (a) prescribing the information and undertakings to be furnished by applicants for permits, certificates or other authorizations under this Act, the procedure to be followed in applying for and issuing or granting permits, certificates or other authorizations, the duration thereof, and the terms and conditions, including those with reference to shipping or other documents, upon which permits, certificates or other authorizations may be issued or granted under this Act; 30
 - (b) respecting information to be supplied by persons to whom permits, certificates or other authorizations have been issued or granted under this Act and any other matter associated with their use; 35
 - (c) respecting the issue of and conditions or requirements applicable to general permits or general certificates; 40
 - (d) respecting the certification, authorization or other control of any in-transit movement through any port or place of any goods that are exported from Canada or of any goods that come into any port or place in Canada; 45

8. Section 9.

9. New. Formerly section 10(1) of the Import Permit Regulations.

10. Sections 8 and 9.

11. Section 10.

12. Section 11.
(a) Section 11(a), (b) and (c).

(b) New.

(c) New. Formerly section 1(2) of the Export Permit Regulations. Section 1(2) of the Import Permit Regulations.

(d) New.

- (e) exempting any person or goods or any class of persons or goods from the operation of any or all of the provisions of this Act; and
- (f) generally for carrying out the purposes and provisions of this Act.

5

OFFENCES AND PENALTIES.

Export or attempt to export.

13. No person shall export or attempt to export any goods included in an Export Control List or any goods to any country included in an Area Control List except under the authority of and in accordance with an export permit issued under this Act.

10

Import or attempt to import.

14. No person shall import or attempt to import any goods included in an Import Control List except under the authority of and in accordance with an import permit issued under this Act.

Diversion, etc.

15. Except with the authority in writing of the Minister, no person shall knowingly do anything in Canada that causes or assists or is intended to cause or assist any shipment, trans-shipment or diversion of any goods included in an Export Control List to be made, from Canada or any other place, to any country included in an Area Control List.

No transfer of permits.

16. No person who is authorized under a permit issued under this Act to export or import goods shall transfer the permit to, or allow it to be used by, a person who is not so authorized.

25

False information.

17. No person shall wilfully furnish any false or misleading information or knowingly make any misrepresentation in any application for a permit, certificate or other authorization under this Act or for the purpose of procuring its issue or grant or in connection with any subsequent use of such permit, certificate or other authorization or the exportation, importation or disposition of goods to which it relates.

30

Aiding and abetting.

18. No person shall knowingly induce, aid or abet or attempt to induce, aid or abet any person to violate a provision of this Act or the regulations.

Offence and penalty.

19. (1) Every person who violates any of the provisions of this Act or the regulations is guilty of an offence and is liable

- (a) on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment; or

40

(e) Section 11(d).

(f) Section 11 (e).

13. Section 5.

14. Section 6.

15. New.

16. New. Formerly section 5 (2) of the Export Permit Regulations and section 4 of the Import Permit Regulations.

17. Section 7.

18. New.

19. Section 14.

(1) (a) Section 14 (1) (a).

(b) on conviction upon indictment to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding five years or to both fine and imprisonment.

Limitation
on summary
offences.

(2) A prosecution under paragraph (a) of subsection (1) 5
may be instituted at any time within three years from the
time when the subject-matter of the complaint arose.

Officers of
corporations.

20. Where an offence under this Act has been committed by a corporation, whether or not the corporation has been prosecuted or convicted, every person who at the 10
time of the commission of the offence was a director or
officer of the corporation, is guilty of the like offence and is
liable, on conviction, to the punishment provided for the
offence, upon proof that the act or omission constituting
the offence took place with his knowledge or consent or 15
that he failed to exercise due diligence to prevent the com-
mission of such offence.

Responsibil-
ity of
resident
applicants for
non-resident
permittees.

21. Where a permit under this Act is issued to a person who has applied therefor for or on behalf of or for the use of another person who is not a resident of Canada and such 20
other person commits an offence under this Act, the person
who applied for the permit is, whether or not the non-
resident has been prosecuted or convicted, guilty of the like
offence and is liable, on conviction, to the punishment pro-
vided for the offence, upon proof that the act or omission 25
constituting the offence took place with his knowledge or
consent or that he failed to exercise due diligence to prevent
the commission of such offence.

Venue.

22. (1) Any proceeding in respect of an offence under this Act may be instituted, tried or determined at the place 30
in Canada where the offence was committed or at the place
in Canada in which the person charged with the offence is,
resides or has an office or place of business at the time of
institution of the proceedings.

Where more
than one
offence.

(2) In any proceedings in respect of offences under this 35
Act, an information may include more than one offence
committed by the same person and all such offences may
be tried concurrently and one conviction for any or all
offences may be made, and no information, warrant, sum-
mons, conviction or other proceedings for such offences shall 40
be deemed objectionable on the ground that it relates to
two or more offences.

Evidence.

23. Where it appears from the original or a copy of a bill of lading, customs form, commercial invoice or other document (hereinafter called a "shipping document") that 45
(a) goods were shipped or sent from Canada or came
into Canada,

(1) (b) Section 14 (1) (b).

(2) Section 14 (2).

20. New.

GENERAL

21. All officers, as defined in the Customs Act, before permitting the export or import of any goods, shall satisfy themselves that the exporter or importer, as the case may be, has not violated any of the provisions of this Act or the regulations and that all requirements of this Act and the regulations with reference to those goods have been complied with.

21. New.

22. All officers, as defined in the Customs Act, have with respect to any goods to which this Act applies, all the powers they have under the Customs Act with respect to the importation and exportation of goods, and all the provisions of that Act and the regulations thereunder respecting search, detention, seizure, forfeiture and condemnation apply, mutatis mutandis, to any goods that are tendered for export or import or exported or imported or otherwise dealt with contrary to this Act and the regulations and to all documents relating to such goods.

22. New.

23. As soon as practicable after the 31st day of December of each year the Minister shall prepare and lay before Parliament a report of the operations under this Act for that year.

23. New.

24. This Act shall expire on the 31st day of July, 1957.

25. The Export and Import Permits Act, chapter 104 of the Revised Statutes of Canada, 1952, is repealed.

26. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

23. New.

Customs officers duties

Application of powers under the Customs Act

Report to Parliament

Duration

Repeal

Coming into force

(b) a person, as shipper, consignor or consignee, shipped or sent goods from Canada or brought goods into Canada, or

(c) goods were sent to a destination or person other than as authorized in any export or import permit relating to the goods, 5

the shipping document is admissible in evidence in any prosecution under this Act in respect of those goods and is *prima facie* proof of any of the facts set out in paragraph (a), (b) or (c) appearing therefrom. 10

GENERAL.

Customs officers' duties.

24. All officers, as defined in the *Customs Act*, before permitting the export or import of any goods, shall satisfy themselves that the exporter or importer, as the case may be, has not violated any of the provisions of this Act or the regulations and that all requirements of this Act and the regulations with reference to those goods have been complied with. 15

Application of powers under the Customs Act.

25. All officers, as defined in the *Customs Act*, have, with respect to any goods to which this Act applies, all the powers they have under the *Customs Act* with respect to the importation and exportation of goods, and all the provisions of that Act and the regulations thereunder respecting search, detention, seizure, forfeiture and condemnation apply, *mutatis mutandis*, to any goods that are tendered for export or import or exported or imported or otherwise dealt with contrary to this Act and the regulations and to all documents relating to such goods. 25

Report to Parliament.

26. As soon as practicable after the 31st day of December of each year the Minister shall prepare and lay before Parliament a report of the operations under this Act for that year. 30

Duration.

27. This Act shall expire on the 31st day of July, 1957.

Repeal.

28. The *Export and Import Permits Act*, chapter 104 of the Revised Statutes of Canada, 1952, is repealed. 35

Coming into force.

29. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council. 35

24. Section 12.

25. Section 13.

26. Section 15.

27. Section 16.

28. New.

29. New.

P-50-2(b)



SECRET

Offl

OFFICE OF
THE MINISTER OF TRANSPORT
OTTAWA, CANADA

April 6th, 1954.

Dear Mr. Bryce,

I have reference to your letter of the 31st ultimo and my reply of the 2nd instant on the Emergency Powers Act and those Orders which affect my Department.

In my letter of the 2nd instant, I indicated that I would communicate with the Minister of Trade and Commerce as to the advisability of continuing the order on the control of trade by sea with Continental China and Northern Korea in appropriate legislation.

This I have done. Mr. Howe is of the opinion that the Export and Import Permits Act covers the situation fully. In his view, it is not necessary to continue these powers by additional legislation.

Perhaps you might put this item on the Agenda for discussion the next time the legislation is up for review.

Yours truly,

Mr. R.B. Bryce,
Secretary to the Cabinet,
Privy Council Office,
Ottawa.

THE COMMISSIONER,

R. C. POLICE,
OTTAWAROYAL CANADIAN MOUNTED POLICE
HEADQUARTERS

IN REPLY PLEASE QUOTE

FILE NO. 51 D 992-10-ADM-1

OTTAWA, April 5, 1954.

CANADA

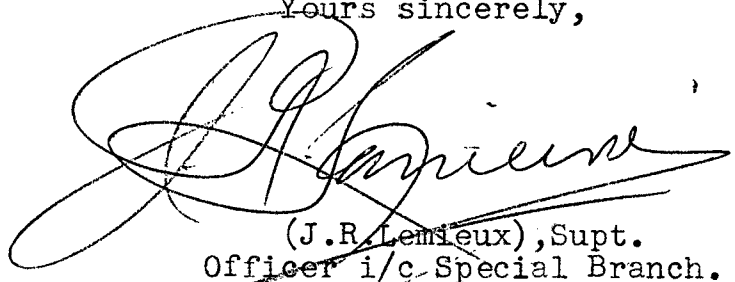
TOP SECRET - PICNIC

Dear Mr. Dwyer:

1. Further to your telephone conversation this morning with Inspector T.M. Guernsey on the subject of authority for "Picnic", our files reveal that when this subject was first discussed during the summer of 1949, the telephone companies concerned stated that they would be prepared to accept as an official sanction for this operation a letter of assurance from the Federal Government. A draft letter for this purpose was produced at a meeting in January 1950 by Mr. Thomas Eadie, then Vice-president and now President of the Bell Telephone Company, and there discussed by officials of the Privy Council Office, External Affairs, and the RCMP. A memorandum on file dated 4 October 1950 recorded that the Minister of Justice had established a clear understanding with the Secretary of State for External Affairs to the effect that Mr. Pearson would undertake any action required in this connection and that Mr. Garson had no responsibility in the matter. Accordingly, Mr. Garson declined to sign with Mr. Pearson the necessary letter to the telephone companies. It was at this time therefore that the government had to make other arrangements with the result, as you know, that Order in Council P.C. 3486 of 4 July 51 was passed.

2. The system as you know has proved to be of the greatest value to us and, at the same time, its security has been preserved as far as we know. Perhaps these two circumstances would now make it possible for the government to issue such a letter of assurance and that the telephone companies would be prepared to accept it. We therefore attach for consideration a draft of such a letter based upon the one produced by Mr. Eadie in 1950, modified in the light of the important changes since that time.

Yours sincerely,



(J.R. Lemieux), Supt.
Officer i/c Special Branch.

Mr. P.M. Dwyer,
Secretary,
Security Panel,
Privy Council Office,
East Block - Room 137,
OTTAWA, Ontario.

Encl.

TOP SECRET - PICNIC

TO: Telephone Companies

1. You will recall that in 1949 and 1950 the government discussed with representatives of your company the international situation which we deemed to be such as to warrant emergency action being taken, particularly recording of conversations over ^{certain} the telephone lines leased by you (to representatives of certain foreign governments.) Our appreciation of the international situation remains unchanged.
2. You will also recall that the government established a legal authority for conducting such operations under Order in Council P.C. 3486 of 4 Jul 1951. This Order in Council was passed under the Emergency Powers Act due to lapse next month. However the government is convinced of the necessity to continue this kind of surveillance as an important measure of national security.
3. When this telephone surveillance was first discussed with your company, you expressed your willingness to accept from the government a letter of good faith as a sufficient authority for your co-operation. We now consider that it would be ~~more~~ advantageous to use this method of continuing this operation as it at present exists in both scope and procedures, provided you are willing to do so. To try to extend the Emergency Powers Act or to make amendments to other available legislation would, we feel, probably excite public attention and thereby jeopardize the security of the whole operation, which as far as we know has continued inviolate.
4. I attach high importance to this arrangement and assure you of the desire of the government that it should be carried out. It is my understanding that you will accept this letter as evidence of the

TOP SECRET - PICNIC

government's good faith in the matter and as an agreement that the government will not make public this present undertaking without prior consultation with yourself. It is further understood that the same procedure will be adhered to on your part.

L.S. St.Laurent



P-50-2(b)

off

S E C R E T

Ottawa, April 5, 1954.

Mr. R.B. Bryce,
Clerk of the Privy Council and
Secretary to the Cabinet,
Privy Council Office,
Ottawa.

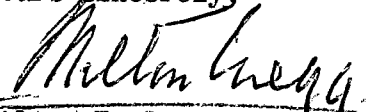
Attention Mr. Pelletier

Dear Mr. Bryce:

I have your letter of March 30 covering the Cabinet discussion relating to the Emergency Powers Act and the further discussion arising out of this with respect to the Great Lakes Seamen's Security Regulations, together with copy of the memorandum which was before Cabinet in this matter:

I am in agreement with the recommendation under the third head of this memorandum, namely that an effort be made in the first instance to obtain United States concurrence in a complete discontinuance of the Great Lakes Seamen's Security Regulations. If as a result of this approach it appears that the discontinuance of the regulations would result in restrictive action being taken by the United States against Canadian shipping moving into United States ports or through United States canal routes in the Great Lakes, then the second alternative should be given immediate consideration, namely the introduction of appropriate amendments to the Navigable Waters Protection Act to obtain authority to continue the Great Lakes Seamen's Security Regulations in existence after May 31. In this connection, it will be necessary to consider whether the proposed amendment to the Navigable Waters Protection Act should be in the nature of a general authority to enact regulations of the nature now contained in the Great Lakes Seamen's Security Regulations, or whether it would be proposed to re-enact in the amendment the provisions of the existing regulations. It would certainly be desirable that any amendment which is made should contain a definite terminal date, with authority to the Governor in Council to revoke prior to that date if circumstances warrant.

Yours sincerely,


Milton F. Gregg.

P-50-2(b)
one



MINISTER OF JUSTICE AND
ATTORNEY GENERAL OF CANADA

SECRET

O t t a w a,
April 5th, 1954.

Dear Mr. Pelletier, -

Re: Emergency Powers Act.

This will acknowledge yours of March
30th.

The suggestions set out under the
third heading of the memorandum sheet attached
to your said letter meets with my approval and
having, before I received your letter, discussed
the matter with the Minister of Labour, I believe
that it meets with his approval also although I
think that he would prefer to let the regulations
lapse if possible.

Yours sincerely,

Mr. Paul Pelletier,
Assistant Secretary to the Cabinet,
Cabinet Secretariat,
Privy Council Office,
East Block,
O t t a w a.

P-50-2(b)
one



MINISTER OF TRADE AND COMMERCE
CANADA

SECRET

OTTAWA, April 2, 1954.

Dear Mr. Bryce:-

Thanks for your letter of March 30, regarding action to be taken in contemplation of the Emergency Powers Act being allowed to lapse on May 31 next.

I will comment on your letter as follows:-

(1) Priorities Control - The existing controls will be revoked as of May 31, and necessary new regulations and appointments will be made under authority of the Defence Production Act.

(2) Transport Control - I understand that Mr. Milner, the Transport Controller, is discussing with Mr. Chevrier an amendment to the Transport Act renewing his powers. I regard powers by the Transport Controller as being very important.

(3) Wheat Storage Spaces not Eligible for Licenses under the Canada Grain Act - I have been advised by the Board of Grain Commissioners that the situation can be taken care of without amendment to the Canada Grain Act, since the present Act provides the necessary power.

R. B. Bryce, Esq.,
Secretary to the Cabinet,
Privy Council Office,
O T T A W A.

(4) Control of Trade by Sea - It seems to me that this Order-in-Council can be allowed to expire. There are no Canadian ships trading in China waters and not likely to be any such ships. In any case, I understand that we have adequate powers in Section 15 of our new Bill to cover the shipment of any strategic materials to Iron Curtain countries. This clause does not provide authority for licensing voyages, but gets much the same effect by exposing the carrier to prosecution if he "shall knowingly do anything in Canada that causes or assists or is intended to cause or assist any shipment, transshipment or diversion of any goods included in an Export Control List to be made, from Canada or any other place, to any country included in an Area Control List." I propose to bring this clause to the attention of Canadian ship owners and operators.

Yours sincerely,





OFFICE OF
THE MINISTER OF TRANSPORT
OTTAWA, CANADA

P-50-2 (b) / PP
OPEL / for dump
Return to the Relation
[Signature]

April 2nd, 1954.

SECRET

Dear Mr. Bryce:

I have your letter of March 31st suggesting action which might be taken with regard to various Orders-in-Council passed under the Emergency Powers Act and relating to the activities of my Department.

The course which you propose with regard to P.C. 4410 of October 30th, 1952, is one which can be followed. This is the Order relating to Pilot licenses and Radio Operators' Certificates. It will involve a somewhat larger element of risk but the situation will be protected, in the event of emergency, by the course which you suggest. It will add very materially to the work of the R.C.M.P. since a substantially larger list of names will have to be referred to them for a security check, about 4,000 more a year. It is to be hoped they can handle this volume.

With regard to P.C. 3484 of August 8th, 1951, relating to the operation of U.S.A. radio stations in Canada, I am instructing my officials to consider, at once, the preparation of an amendment to the Radio Act to cover this situation. I believe it will be possible to have something drafted quickly which could be introduced at the present Session.

With respect to Transport Control, P.C. 4535 and P.C. 4558 of August 29th, 1951, I am arranging to

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Mr. R. B. Bryce,
Secretary to the Cabinet,
Privy Council Office,
Ottawa.

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have instructions forwarded to the Department of Justice for the drafting of a Bill to amend the Department of Transport Act.

I intend to discuss with my colleagues the Minister of Trade and Commerce and the Secretary of State for External Affairs the question of continuing the control of trade by sea with continental China and North Korea, P.C. 1953-604 of April 17th, 1953.

Yours sincerely,
Robert Brewster

Ottawa, March 31st, 1954. ^{oral}

MEMORANDUM TO MR. PELLETIER

You asked me to give you my views about tapping telephones as a measure of counter-espionage, in view of the concern which the Prime Minister feels at the proposed extension of the government's powers to do this.

I think our first consideration should be to place this particular distasteful measure in its right perspective by emphasizing that it is only one of the improper things which a security service, or a counter-espionage organization, is forced to do because the foreign intelligence services against which it is committed are themselves completely ruthless and amoral. You cannot protect yourself against an all-in wrestler by observing the Marquess of Queensbury rules.

A telephone tap is simply a clandestine method of acquiring information vital to the security of Canada. If Special Branch were to obtain by

surreptitious means a document setting forth the organization of the Soviet Intelligence Services in Canada we should not be unduly concerned as to how they had obtained it. Or if they were to eavesdrop a conversation which provided some insight into Soviet strategic intentions we should not question the propriety of their actions. When Gouzenko came to us with his information we did not seriously consider whether or not his action was a proper one for an accredited diplomat.

Tapping a telephone, which is a technological method of eavesdropping, does not perhaps loom so large when it is related to these other protective measures which a security service must take. It remains, of course, a normally unacceptable invasion of a person's privacy and only due safeguards and a real requirement can justify this and similar measures. The requirement must depend upon the nature of the threat to national security, and it is therefore often argued with some force that measures of this kind are only justified in time of war or

extreme peril. Indeed in our own case this thought is apparent since the enabling legislation is the Emergency Powers Act.

There are, I think, two points which make this argument unreal. Counter-measures against espionage are not something which can simply be put into effect when the danger is immediate, as guards might perhaps be put on a building. They must be laboriously built up, developed and maintained over a long period of time before they become effective. Il faut cultiver notre jardin - even if it is a rather dirty one. It is probable that the measures the police have taken so far are only just beginning to show some small results, and in a way it is only an effective continuance of them which can really justify our having put them into effect in the first place.

The second point is that the danger to national security from espionage is not seriously affected by war. Espionage continues uninterrupted and it is frequently the results of peacetime espionage which are used against a country in time of

war. In the field of espionage there is no such thing as peace time, and indeed a professional spy will tend to regard war as a serious inconvenience which increases his work and renders the conditions under which he does it extremely difficult. For these reasons it does not seem valid to relate counter-espionage methods to the urgencies of war. Counter-espionage should not be confused with measures such as the internment of suspected subversives; that is an emergency measure and not counter-espionage.

It is, of course, for the R.C.M.P. to say what has been the value of telephone taps in Canada to date. Elsewhere in the past the measure has proved of great importance and it is now considered a normal weapon of counter-intelligence in both the U.K. and the U.S.A. both of which have enabling legislation. In the U.K. it is obscured in the Post Office Act, in the U.S.A. it is done by Presidential directive. In both countries there are safeguards designed to prevent abuses. The value of the powers provided by the Post Office Act can perhaps be demonstrated by a quite remarkable case which happened during the last war.

Throughout the war the whole German intelligence service in the U.K. was under the control of and operated by the U.K. security service. And apart from the head agent, who was known as Garbo, its networks existed mainly in the minds of British counter-intelligence officers - though it appeared real enough to the Germans. The whole object of the Garbo operation was to provide deception to cover the Overlord landings and lead the German High Command to believe that the main attack would come across the Pas de Calais. It was successful in leading Van Rundstedt to hold his main forces on a deep perimeter so that the first landings did not meet the full brunt of German arms. Sir Winston Churchill, I understand, estimated that it may have saved the lives of a division.

Shortly before the landings Garbo's wife, as a result of an emotional crisis, became disaffected and decided to tell the Spanish Ambassador what she knew. As I recall, her intention to do what would certainly have wrecked the cover plan was first discovered by a telephone tap. As a result

she was prevented. In this case it is not unreasonable therefore to assess the value of a telephone tap in the terms of men's lives.

Of course one could go a great deal further back in history to find many examples of similar methods being used to counterespionage. One would certainly be Sir Francis Walsingham's ingenious methods in the 16th century for obtaining, opening and resealing the correspondence passing between Philip of Spain's agents and Mary Queen of Scots. However, it is obviously dangerous though easy enough to seek historical precedents to justify improper actions. I only mention them, as devil's advocate, because the position in which the government at present finds itself is by no means a new or exceptional one; and in using distasteful measures of this kind we should at least be keeping quite good company.

P. M. D.

P-50-2(b)
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SECRET

Ottawa, March 31st, 1954.

Hon. L. B. Pearson, M.P.,
Secretary of State for External Affairs,
East Block,
Ottawa, Ont.

Dear Mr. Pearson,

You will recall the discussion at last Thursday's Cabinet meeting regarding the Emergency Powers Act and the various Orders in Council which have been made under it and which remain in effect at this time.

After some considerable discussion, Cabinet agreed that the Emergency Powers Act should be allowed to lapse on May 31st next. Decision was deferred on the disposal to be made of the secret Order in Council (P.C. 3486 of July 4th, 1951) pending further consideration of the problems involved by a special Committee of Cabinet to be convened by the Prime Minister. Cabinet merely noted the various suggestions that were contained in my memorandum of March 24th, which was circulated prior to the meeting and a copy of which is attached, with regard to the disposition that might be made of the other Orders in Council under the Act.

One of these Orders (P.C. 2306 of May 22nd, 1952), establishing the Great Lakes Seaman's Security Regulations, is of particular interest to you.

Could you please let me know whether the suggestions set out under the third heading of the attached memorandum meet with your approval. I am writing separately to the Minister of Labour and the Minister of Justice, both of whom have an interest in this matter.

If you agree with the above, I assume you will have your officials attempt once again to obtain U.S. concurrence to a complete discontinuance of these Regulations. In the meantime

we could arrange to have an appropriate amendment to the Navigable Waters Protection Act prepared as it appears unlikely that the United States will view with any degree of equanimity the disappearance of this Order in Council.

Another Order in Council under the Emergency Powers Act with which you are no doubt concerned is P.C. 1953-604 of April 17th, 1953, regarding control of trade by sea with Continental China and North Korea. I understand that the original intention had been to provide the required authority in the new Export and Import Permits bill to continue these controls in effect. However, the bill now before Parliament does not contain such authority, although I suppose it can be argued that somewhat the same results can be achieved, at least partially, by the diversion clause (Section 15) of the new bill.

You will recall that this Order in Council was passed originally in order that Canada might more fully meet its obligations under the Resolution of Additional Measures adopted by the General Assembly of the United Nations on May 18th, 1951. I would think that, from the practical point of view, there may be some doubt that continuation of this Order in Council is really required in present circumstances. If, however, the Order is to be continued after May 31st, this might possibly be done under an amendment either to the Canada Shipping Act or to the United Nations Act 1951. ⁴⁷

I am writing separately to Mr. Howe and Mr. Chevrier, as they both have a direct interest in this question and you may wish to discuss the matter with them with a view to determining what, if anything, should be done to continue the Order in force.

I am sending a copy of this note to the Acting Under-Secretary of State for External Affairs for his information.

Yours sincerely,

Paul Pelletier,
Assistant Secretary to the Cabinet.

Mr. Taylor
Mr. Driedger

SECRET

pp-s

P-50-2(b)
DHL

Ottawa, March 31, 1954.

The Honourable D.C. Abbott, M.P.,
Minister of Finance,
O T T A W A.

Dear Mr. Abbott:

You will recall the discussion at last Thursday's meeting regarding the Emergency Powers Act and the various Orders-in-Council which have been made under it, and which remain in effect at this time.

After some considerable discussion, Cabinet agreed that the Emergency Powers Act should be allowed to lapse on May 31st next. Decision was deferred on the disposal to be made of the special Order-in-Council (P.C. 3486 of July 4th, 1951) pending further consideration of the problems involved by a special committee of Cabinet to be convened by the Prime Minister. Cabinet merely noted the various suggestions contained in my memorandum of March 24th regarding the disposition that might be made of the remaining Orders under the Act.

I would like to draw your attention particularly to subhead 7 of the enclosed memorandum which relates to the free admission of personal gifts from armed forces personnel abroad (P.C. 6598 of December 6th, 1951). If you agree with the suggestions contained therein, would you be good enough to arrange for an appropriate amendment to be made to the Customs Tariff in order that the substance of this Order-in-Council may be continued in force after the Emergency Powers Act expires on May 31st next.

I am sending a copy of this letter to your Deputy Minister for his information.

Yours sincerely,

R.B. Bryce,
Secretary to the Cabinet.

Mr. West
Mr. Baldwin
Mr. Driedger

P. 50-2 (b)
pp-3
GHL

S E C R E T

Ottawa, March 31, 1954.

The Honourable Lionel Chevrier, M.P.,
Minister of Transport,
O T T A W A.

Dear Mr. Chevrier:

You will recall the discussion at last Thursday's meeting regarding the Emergency Powers Act and the various Orders-in-Council which have been made under it, and which remain in effect at this time.

After some considerable discussion, Cabinet agreed that the Emergency Powers Act should be allowed to lapse on May 31st next. Decision was deferred on the disposal to be made of the special Order-in-Council (P.C. 3486 of July 4th, 1951) pending further consideration of the problems involved by a special committee of Cabinet to be convened by the Prime Minister. Cabinet merely noted the various suggestions contained in my memorandum of March 24th regarding the disposition that might be made of the remaining Orders under the Act.

Could you please let me know whether you agree with the suggestions made regarding the Orders-in-Council mentioned hereunder which are of particular interest to you.

1. TRANSPORT CONTROL
(P.C. 4535 and P.C. 4558 of August 29th, 1951)

Although transport control has only been used to a limited degree during the past few years it has been represented to us by officials of your Department, and other Departments concerned, that these Orders-in-Council should be continued in force in order that they may be available and used quickly in the event serious transportation difficulties should arise in future.

It was therefore suggested that the Department of Transport Act be amended to authorize the making of regulations and appointments for the purpose of continuing transport control after the Emergency Powers Act had lapsed after May 31st next.

2. ORDER RELATING TO AIRCRAFT PILOT LICENSES AND RADIO OPERATORS' CERTIFICATES OF PROFICIENCY
(P.C. 4410 of October 30th, 1952)

This Order-in-Council, passed in the autumn of 1952 to meet the case of a known communist who already had a pilot's license and was applying for a certificate of proficiency under the Radio Act, authorizes the Minister of Transport to refuse to grant pilot licenses or certificates of proficiency for radio operators when such a course of action appears to him to be required in the interest of the security of Canada.

It is one thing to pass an Order of this kind under authority of legislation such as the Emergency Powers Act and quite another to do so under normal peace time legislation. Furthermore, the degree of protection afforded by withholding pilot licenses and certificates of proficiency from known or suspected communists cannot in present circumstances be very substantial. In the circumstances, it is suggested that the Order in Council be allowed to lapse on May 31st, on the understanding that the Minister of Transport will have all applicants for pilot licenses and for certificates of proficiency under the Radio Act screened by the R.C.M. Police and will place the names of those applicants suspected of being disloyal on a special list. It would thus be possible to have the licenses and certificates of such persons revoked immediately upon the outbreak of hostilities or in a serious emergency.

3. OPERATION BY U.S.A. OF RADIO STATIONS IN CANADA
(P.C. 3484 of August 8th, 1951)

It was suggested that an appropriate amendment to the Radio Act be prepared and introduced to provide authority for continuance in existence of this Order-in-Council.

4. CONTROL OF TRADE BY SEA WITH CONTINENTAL CHINA AND
NORTH KOREA
(P.C. 1953-604 of April 17th, 1953)

It had been originally suggested that the Export and Import Permits Act might be amended to provide the authority required to continue this Order-in-Council in existence. However, the Export and Import Permits bill, now before the House, does not provide such authority although it could be argued that somewhat the same results could be achieved, at least partially, under the diversion clause (section 15) of the new bill. You will recall that this Order-in-Council was originally passed in order that Canada might be in a position to meet her obligations under the RESOLUTION ON ADDITIONAL MEASURES adopted by the General Assembly of the United Nations on May 18th, 1951. You will, no doubt, wish to discuss this matter with the Minister of Trade and Commerce and the Secretary of State for External Affairs to whom I have written separately. If it is agreed that the Order-in-Council should be continued, this might possibly be done by an amendment to the Canada Shipping Act or the United Nations Act, 1947.

If you are in general agreement with the suggestions outlined under subheads 1 and 3 above, could you arrange to have instructions forwarded to the Department of Justice, as soon as possible, in order that the drafting of the required amendments to the Department of Transport Act and to the Radio Act may be put in hand without delay.

I am sending copies of this letter to Mr. West and Mr. Baldwin for their information.

Yours sincerely,

R.B. Bryce,
Secretary to the Cabinet.

SECRET

P-50-2(6)

ONE

for Dow 1st

Ottawa, March 30, 1954.

Hon. Milton F. Gregg, M.P.,
Minister of Labour,
Confederation Bldg.,
Ottawa, Ont.

Dear Mr. Gregg,

You will recall the discussion at last Thursday's Cabinet meeting regarding the Emergency Powers Act and the various Orders in Council which have been made under it and which remain in effect at this time.

After some considerable discussion, Cabinet agreed that the Emergency Powers Act should be allowed to lapse on May 31st next. Decision was deferred on the disposal to be made of the secret Order in Council (P.C. 3486 of July 4, 1951) pending further consideration of the problems involved by a special Committee of Cabinet to be convened by the Prime Minister. Cabinet merely noted the various suggestions that were contained in my memorandum of March 24th, which was circulated prior to the meeting and a copy of which is attached, with regard to the disposition that might be made of the other Orders in Council under the Act.

One of these Orders (P.C. 2306 of May 22, 1952), establishing the Great Lakes Seamen's Security Regulations, is of particular interest to you.

Could you please let me know whether the suggestions set out under the third heading of the attached memorandum meet with your approval. I am

writing separately to the Secretary of State for External Affairs and the Minister of Justice, both of whom have an interest in this matter.

I am sending a copy of this note to your Deputy Minister for his information.

Yours sincerely,

Paul Pelletier,
Assistant Secretary to the Cabinet.

PP:JP

SECRET

P-50-2 (b)
Orr

Ottawa, March 30, 1954.

Hon. L.B. Pearson, M.P.,
Secretary of State for External Affairs,
East Block,
Ottawa, Ont.

Dear Mr. Pearson,

You will recall the discussion at last Thursday's Cabinet meeting regarding the Emergency Powers Act and the various Orders in Council which have been made under it and which remain in effect at this time.

After some considerable discussion, Cabinet agreed that the Emergency Powers Act should be allowed to lapse on May 31st next. Decision was deferred on the disposal to be made of the secret Order in Council (P.C. 3486 of July 4, 1951) pending further consideration of the problems involved by a special Committee of Cabinet to be convened by the Prime Minister. Cabinet merely noted the various suggestions that were contained in my memorandum of March 24th, which was circulated prior to the meeting and a copy of which is attached, with regard to the disposition that might be made of the other Orders in Council under the Act.

One of these Orders (P.C. 2306 of May 22, 1952), establishing the Great Lakes Seamen's Security Regulations, is of particular interest to you.

Could you please let me know whether the suggestions set out under the third heading of the attached memorandum meet with your approval. I am

writing separately to the Minister of Labour and the Minister of Justice, both of whom have an interest in this matter.

If you agree with the above, I assume you will have your officials attempt once again to obtain U.S. concurrence to a complete discontinuance of these Regulations. In the meantime we could arrange to have an appropriate amendment to the Navigable Waters Protection Act prepared as it appears unlikely that the United States will view with any degree of equanimity the disappearance of this Order in Council.

I am sending a copy of this note to the Acting Under-Secretary of State for External Affairs for his information.

Yours sincerely,

Paul Pelletier,
Assistant Secretary to the Cabinet.

PP:JP

SECRET

P-50-2(b)
Ottawa

Ottawa, March 30, 1954.

Hon. Stuart Garson, Q.C.,
Minister of Justice,
Justice Bldg.,
Ottawa, Ont.

Dear Mr. Garson,

You will recall the discussion at last Thursday's Cabinet meeting regarding the Emergency Powers Act and the various Orders in Council which have been made under it and which remain in effect at this time.

After some considerable discussion, Cabinet agreed that the Emergency Powers Act should be allowed to lapse on May 31st next. Decision was deferred on the disposal to be made of the secret Order in Council (P.C. 3486 of July 4, 1951) pending further consideration of the problems involved by a special Committee of Cabinet to be convened by the Prime Minister. Cabinet merely noted the various suggestions that were contained in my memorandum of March 24th, which was circulated prior to the meeting and a copy of which is attached, with regard to the disposition that might be made of the other Orders in Council under the Act.

One of these Orders (P.C. 2306 of May 22, 1952), establishing the Great Lakes Seamen's Security Regulations, is of particular interest to you.

Could you please let me know whether the suggestions set out under the third heading of the attached memorandum meet with your approval. I am

writing separately to the Minister of Labour and the Secretary of State for External Affairs, both of whom have an interest in this matter.

I am sending a copy of this note to your Deputy Minister for his information.

Yours sincerely,

Paul Pelletier,
Assistant Secretary to the Cabinet.

PP:JP

P-50-2(b)
Orr

SECRET

Ottawa, March 30th, 1954.

The Right Honourable C.D. Howe, M.P.,
Minister of Trade and Commerce,
and Defence Production,
O T T A W A.

Dear Mr. Howe:

You will recall the discussion at last Thursday's Cabinet meeting regarding the Emergency Powers Act and the various Orders in Council which have been made under it, and which remain in effect at this time.

After some considerable discussion, Cabinet agreed that the Emergency Powers Act should be allowed to lapse on May 31st next. Decision was deferred on the disposal to be made of the special Order in Council (P.C. 3486 of July 4th, 1951,) pending further consideration of the problems involved by a special committee of Cabinet to be convened by the Prime Minister. Cabinet merely noted suggestions that were made in my memorandum of March 24th as to how the other Orders in Council might be dealt with after May 31st.

Of the various Orders in Council under the Emergency Powers Act, you are particularly concerned with the following:

1. Priorities Control (Regulations and appointments - P.C. 2399 of May 16th, 1951 and P.C. 3431 of June 28th, 1952).

As it has been represented that there is no longer any real need for priority control in the civilian economy, it was suggested that these Orders in Council might be revoked as of May 31st and that new regulations and appointments be made under authority of the Defence Production Act with regard to priorities control in the defence field only.

2. Transport Control (Regulations and appointments - P.C. 4535 and P.C. 4558 of August 29th, 1951).

I have no doubt that these regulations are of interest to you even though they are administered by the Minister of Transport. It is being suggested to Mr. Chevrier that the Department of Transport Act might be amended to authorize the making of regulations and appointments for the purpose of continuing transport control.

3. Order relating to wheat storage spaces not eligible for licenses under the Canada Grain Act (P.C. 5122 of September 26th, 1951 as amended by P.C. 4114 of September 24th, 1952).

It has been suggested that the substance of this Order should be continued in force and that this could most appropriately be achieved by an amendment to the Canada Grain Act. You may, however, be somewhat reluctant to open up the Grain Act at this time.

4. Control of trade by sea with Continental China and North Korea (P.C. 1953-04 of April 17th, 1953).

A
I understand that the original intention had been to provide the required authority in the new Export and Import Permits bill to continue these controls in effect. However, the bill now before Parliament does not contain such authority, although I suppose it can be argued that somewhat the same results can be achieved, at least partially, by the diversion clause (Section 15) of the new bill.

You will recall that this Order in Council was passed originally in order that Canada might more fully meet its obligations under the Resolution of Additional Measures adopted by the General Assembly of the United Nations on May 18th, 1951. I would think that, from the practical point of view, there may be some doubt that continuation of this Order in Council is really required in present circumstances. If, however, the Order is to be continued after May 31st, this might possibly be done under an amendment either to the Canada Shipping Act or to the United Nations Act 1951.

I am writing separately to Mr. Chevrier and Mr. Pearson, as they both have a direct interest in this question and you may wish to discuss the matter with them with a view to determining what, if anything, should be done to continue the Order in force.

Could you please let me know whether you agree with the suggestions outlined above. If so, could your Department forward instructions as soon as possible to the Department of Justice for the drafting of the amendment to the Canada Grain Act required to continue in force the Order relating to supplementary wheat storage spaces.

I am sending copies of this note to Mr. Bull and Mr. Brophie for their information.

Yours sincerely,

R. B. Bryce,
Secretary to the Cabinet.

Ottawa, March 29, 1954.

MEMORANDUM FOR MR. BRYCESpecial Cabinet Committee to
consider secret Order in Council

At the Cabinet meeting held last Thursday, decision was deferred as to whether or not special steps should be taken to continue in force the substance of the secret Order in Council (P.C. 3486 of July 4, 1951) after the Emergency Powers Act ceases to have effect on May 31st next, pending consideration of the problem by a special Committee of Cabinet to be convened by the Prime Minister.

I assume that you will wish to speak to the Prime Minister at an early date about calling the first meeting. I don't know who the Prime Minister has in mind for this Committee but perhaps the following would be suitable:

The Prime Minister,
Mr. Abbott *Chairman*
Mr. Pearson
Mr. Garson
Mr. Harris
Mr. Pickersgill

The first thing the Prime Minister will wish to ascertain is just how useful and productive the secret Order is. For this reason, the first meeting of the Committee might well be attended by the Police who could submit an oral or, preferably, a written report on what results have been achieved. Commissioner Nicholson left town last Saturday and will unfortunately be absent for two weeks. However, Superintendent Lemieux, the head of the Special Branch, could be asked to attend and could, I am sure, give all the information that the Prime Minister and his colleagues would require.

The meeting might also usefully be attended by yourself, myself and possibly Mr. Dwyer. I could, if this meets with the Prime Minister's wishes, act as Secretary.

For your information, and you might wish to pass this on to the Prime Minister, Mr. Garson has, since November 24, 1951, issued 63 separate Orders under the authority of the secret Order. The last Order was dated September 28, 1953. Of these 63 Orders, however, 15 have now been cancelled by revocation order of the Minister of Justice. All these Ministerial Orders have been addressed to the Bell Telephone Company of Canada except 5 which were served on the British Columbia Telephone Company. As was surmised in Cabinet the other day, a certain number of these Orders relate to the Embassies and other Missions of certain Iron Curtain countries in Canada. Others relate to the headquarters of certain unfriendly organizations. By far the greatest number, however, relate to individuals who are known or strongly suspected of being disloyal.

After you have spoken to the Prime Minister perhaps you would wish me to get in touch with Superintendent Lemieux and ask him to prepare a report for the Cabinet Committee. Such a report might, I would think, show how frequently the 63 Orders issued by the Minister of Justice were productive of really useful information, with some indication as to the type of information so obtained.

You might be interested in looking at the attached memorandum and enclosure which Mr. Dwyer gave me this morning. At the present time the Official Secrets Act authorizes prosecution of offences committed outside of Canada if such offences are prejudicial to the safety of Canada. The suggestion is that our laws might be amended to authorize prosecution for extra-territorial offences that may be prejudicial to NATO or to member countries other than Canada. If it is finally decided that the Official Secrets Act should be amended to enable continuance of the secret Order, an amendment such as that suggested by the Chairman of the NATO Security Committee might be worth considering.



P.P.

CROSS REFERENCE SHEET

~~SECRET~~ SECRET

Name or Subject	File No.
<u>PRIVY COUNCIL - Law and Practice - Emergency Powers Legislation - Official</u>	<u>P-50-2(b)</u> Offl.
Regarding	Date
<u>Cabinet Conclusions - Meeting Mar. 25th, 1954 - including:</u>	March 25, 1954
Emergency Powers Act; disposition of Orders in Council	

SEE

Name or Subject

File No.

Filed in Safe (Room 227)

SECRET
CABINET DOCUMENT
No. 84/54
Copy No.

MEMORANDUM FOR CABINET

Orders in Council passed under the Emergency Powers Act

Unless an extension is authorized by Parliament before the 31st of May, 1954, the Emergency Powers Act will cease to have effect on that date. In the event it is agreed that this legislation should be allowed to lapse at the end of May, the Cabinet will wish to consider what action, if any, should be taken to continue in force the Orders in Council passed under authority of that Act.

Of the various Orders in Council made under the Emergency Powers Act, eleven remain in force at this time. These eleven orders, however, relate to only nine separate subject matters because, in some cases, two Orders (one for regulations and another for appointments) have been passed concerning the same subject.

The departments immediately concerned with the administration of these various Orders in Council have been consulted as to which of these Orders might be allowed to lapse and which should be continued in force.

Briefly set out hereunder, for consideration, are suggestions as to how these Orders in Council might be disposed of in the event the Emergency Powers Act is allowed to lapse.

*By way
of action
H.C.*

1. PRIORITIES CONTROL (Regulations and appointments - P.C. 2399 of May 16th, 1951 and P.C. 3431 of June 28th, 1952).

These Orders in Council were passed under authority of both the Emergency Powers Act and the Defence Production Act because although there is authority in the latter Act to provide priority controls for defence purposes it does not contain authority to extend such controls to the purely civilian field. As it is felt that there is no longer any real need for priority control in the civilian economy it is suggested that these Orders in Council be revoked as of May 31st and that new regulations and appointments be made under authority of the Defence Production Act with regard to priorities control in the defence field only.

*0772
Golden*

*new
regulations*

*Amended
Dept of
Transport
Act*

2. TRANSPORT CONTROL (Regulations and appointments - P.C. 4535 and P.C. 4558 of August 29th, 1951).

Although transport control has only been used to a limited degree during the past few years, it has been represented that these Orders in Council should be continued in order that they may be available and used quickly in the event serious transportation difficulties should arise. It is anticipated that the mere existence of such control powers will make it unnecessary to use them and that the various transportation agencies will voluntarily cooperate and carry out any suggestions that might be made to them.

*2640
Jorrier
Matters
Cottrell*

*new
reg*

It is therefore suggested that the Department of Transport Act be amended to authorize the making of regulations and appointments for the purpose of continuing transport control.

*H of C Passed May 19
Senate 3rd reading*

Senate 1st reg
May 25

new regu

Amend
Navigable Waters
Protection
Act

3. GREAT LAKES SEAMEN'S SECURITY REGULATIONS
(P.C. 2306 of May 22nd, 1952).

These regulations were established in the spring of 1952 at the insistence of U.S. authorities. Canadian officials concerned with these matters were not convinced then and are not convinced now that the degree of risk involved warrants precautionary measures of this kind. It seems somewhat illogical that elaborate security measures should be taken with regard to shipping on the Great Lakes when nothing similar is done in such fields as railway transportation and the steel industry which are, if anything, more vitally important and more vulnerable than the Great Lakes system. In view of this rather anomalous situation, it would seem inadvisable to have permanent legislation enacted for the purpose of continuing these regulations in force.

Arthur Brown
Mr Davis
2675

Several alternative courses of action have been examined, none of which are entirely satisfactory.

It would be possible legally to continue the present Government machinery in existence on a purely voluntary basis and without any statutory sanction. Under such a scheme, ship owners would not make security clearance a condition of employment, but would simply notify their crews that the U.S. authorities might prohibit their landing on or passing through U.S. territory unless they had a security clearance and that, in the circumstances, it would be in their own best interests to apply to the local National Employment Service office for a security card. This proposal, however, seems to be fraught with so many political and other difficulties that it was not given very much consideration.

A second course of action would be simply to notify the U.S. authorities that after May 31st next, there would no longer be any statutory authority for the regulations and that the Canadian Parliament was not likely to look favourably on the enactment of permanent legislation for such a purpose in peace time. From informal approaches that have already been made to the U.S. Embassy in Ottawa, it seems doubtful that the United States would accept discontinuance of these regulations without protest. They might even go to the length of insisting that all merchant seamen aboard Canadian ships tying up at U.S. ports or sailing through U.S. canals must be in possession of visaed passports.

A third course of action would be to introduce an appropriate amendment to the Navigable Waters Protection Act under which the regulations could be continued. In view of the considerations outlined above, however, it is suggested that any such amendment should not be written into the Navigable Waters Protection Act permanently and that provision should be made to have the amendment automatically cease to have effect on a given date, say three years from the date of enactment.

It is recommended that an effort be made in the first instance to obtain U.S. concurrence in a complete discontinuance of these regulations. If it appears, however, that this would result in restrictive action being taken by the United States against Canadian shipping or other Canadian movements across the U.S. border, it is suggested that steps be taken to introduce appropriate amendments to the Navigable Waters Protection Act which would provide the required authority to continue the Great Lakes Seamen's Security Regulations in existence after May 31st and which would contain a terminal provision under which the amendments would cease to have effect on a given date, say three years hence.

4. ORDER RELATING TO AIRCRAFT PILOT LICENSES AND RADIO OPERATORS' CERTIFICATES OF PROFICIENCY
(P.C. 4410 of October 30th, 1952).

Draft

This Order in Council, passed in the autumn of 1952 to meet the case of a known communist who already had a pilot's license and was applying for a certificate of proficiency under the Radio Act, authorizes the Minister of Transport to refuse to grant pilot licenses or certificates of proficiency for radio operators when such a course of action appears to him to be required in the interest of the security of Canada.

no reg

It is one thing to pass an Order of this kind under authority of legislation such as the Emergency Powers Act and quite another to do so under normal peace time legislation. Furthermore, the degree of protection afforded by withholding pilot licenses and certificates of proficiency from known or suspected communists cannot in present circumstances be very substantial. In the circumstances, it is suggested that the Order in Council be allowed to lapse on May 31st, on the understanding that the Minister of Transport will have all applicants for pilot licenses and for certificates of proficiency under the Radio Act screened by the R.C.M. Police and will place the names of those applicants suspected of being disloyal on a special list. It would thus be possible to have the licenses and certificates of such persons revoked immediately upon the outbreak of hostilities or in a serious emergency.

5. OPERATION BY U.S.A. OF RADIO STATIONS IN CANADA
(P.C. 3484 of August 8th, 1951).

Radio Act amend

Under this Order in Council, the Minister of Transport is authorized "to grant permission, from time to time, to the Government of the United States to establish and operate by its servants or agents, at such authorized military establishments and authorized weather reporting establishments in Canada as he may approve, radio stations equipped with transmitting or receiving radio apparatus or both, and to employ or authorize the employment of radio operators in connection therewith who are not British subjects, such permission to be in such form and terms and on such conditions and for such length of time as he may deem advisable in the public interest."

Hofe Parnell key 25-

*Custom ?
no reg*

It is recommended that an appropriate amendment to the Radio Act be introduced to provide authority for continuance in existence of this Order in Council.

6. ORDER RELATING TO WHEAT STORAGE SPACES NOT ELIGIBLE FOR LICENSES UNDER THE CANADA GRAIN ACT
(P.C. 5122 of September 26th, 1951) *as amended by PE 4116, 24. IX. 52*

Draft Amended

This Order was passed to overcome some of the difficulties caused by the shortage of transportation facilities and provides for deferral of the weigh-over of grain at terminal elevators and for the licensing of supplementary storage spaces not normally eligible for licensing under the Canada Grain Act.

no reg

It is suggested that this Order be continued under an appropriate amendment to the Canada Grain Act.

7. FREE ADMISSION OF PERSONAL GIFTS FROM ARMED FORCES PERSONNEL ABROAD
(P.C. 6598 of December 6th, 1951).

Amend Customs Tariff

This Order provides that personal gifts not exceeding \$25 in value and not including cigarettes, tobacco and alcoholic beverages

no reg

from members of the Canadian Armed Forces serving abroad to relatives or friends in Canada shall be admitted free of customs duty and excise taxes.

It is suggested that the substance of this Order in Council be continued in force by an appropriate amendment to the Customs Tariff.

*Drop
back
to Cab*

8. CONTROL OF TRADE BY SEA WITH CONTINENTAL CHINA AND NORTH KOREA
(P.C. 1953-604 of April 17th, 1953).

*let lapse
no way*

The Export and Import Permits bill, now before Parliament, provides the authority required to continue these controls.

9. SPECIAL ORDER
(P.C. 3486 of July 4th, 1951).

This Order can be allowed to lapse, as alternative provision can be made to achieve the same purposes.

*no
reg*

SUMMARY OF RECOMMENDATIONS

- (a) Priorities Control - to be revoked and replaced by Orders in Council under existing provisions of the Defence Production Act with regard to priority controls in the defence field only.
- (b) Transport Control - to be continued by an appropriate amendment to the Department of Transport Act.
- (c) Great Lakes Seamen's Security Regulations - to be allowed to lapse unless this is likely to give rise to undesirable repercussions in the United States in which event regulations to be continued under a terminable amendment to the Navigable Waters Protection Act.
- (d) Aircraft Pilot Licenses and Radio Operators' Certificates of Proficiency - to be allowed to lapse on the understanding that the Minister of Transport will have all applicants screened by the R.C.M.P. and place the names of those suspected of being disloyal on a special list for immediate action in event of serious emergency.
- (e) Operation by U.S.A. of radio stations in Canada - to be continued by amendment to Radio Act.
- (f) Licensing of supplementary wheat storage spaces - to be continued by amendment to the Canada Grain Act.
- (g) Free admission of personal gifts from Armed Forces abroad - to be continued by amendment of the Customs Tariff.
- (h) Control of trade by sea with Continental China and North Korea - provided for by Export and Import Permits Act now before Parliament.
- (i) Special Order - to be allowed to lapse.

.....5

If the recommendations set out above are approved, the undersigned will arrange to have the Department of Justice draft the required legislative amendments and will ask the Department of Finance to include an appropriate item in the Customs Tariff regarding gifts from military personnel abroad.

R. B. Bryce,
Secretary to the Cabinet.

Privy Council Office,
24 March, 1954.



CANADA

PRIVY COUNCIL OFFICE

CABINET SECRETARIAT

Ottawa, March 24, 1954.

MEMORANDUM FOR MR. BRYCE

Attached is a draft Memorandum to Cabinet, for your consideration and approval, setting forth suggestions as to how various Orders-in-Council, passed under the Emergency Powers Act, might be disposed of after May 31st in the event that Act is allowed to lapse at that time.

I suggest that this matter might be placed on the agenda for tomorrow's meeting in order that various legislative amendments that may be required in the event the Emergency Powers Act is allowed to lapse may be put in hand immediately. You may wish to consult the Prime Minister before actually placing this item on the agenda for tomorrow.

For your information I might add the final draft to the Official Secrets Act has been completed by officials of the Department of Justice and should be in our hands within a few days.


P.P.

*yes say P.M.
2:25 pm. Monday*

MEMORANDUM FOR CABINET

Orders in Council passed under the Emergency
Powers Act

Unless an extension is authorized by Parliament before the 31st of May, 1954, the Emergency Powers Act will cease to have effect on that date. In the event it is agreed that this legislation should be allowed to lapse at the end of May, the Cabinet will wish to consider what action, if any, should be taken to continue in force the Orders in Council passed under authority of that Act.

Of the various Orders in Council made under the Emergency Powers Act, eleven remain in force at this time. These eleven orders, however, relate to only nine separate subject matters because, in some cases, two Orders (one for regulations and another for appointments) have been passed concerning the same subject.

The departments immediately concerned with the administration of these various Orders in Council have been consulted as to which of these Orders might be allowed to lapse and which should be continued in force.

Briefly set out hereunder, for consideration, are suggestions as to how these Orders in Council might be disposed of in the event the Emergency Powers Act is allowed to lapse.

1. PRIORITIES CONTROL (Regulations and appointments - P.C. 2399 of May 16, 1951 and P.C. 3431 of June 28, 1952).

These Orders in Council were passed under authority of both the Emergency Powers Act and the Defence Production Act because although there is authority in the latter Act to provide priority controls for defence purposes it does not contain authority to extend such controls to the purely civilian field. As it is felt that there is no longer any real need for priority control in the civilian economy it is suggested that these Orders in Council be revoked as of May 31st and that new regulations and appointments be made under authority of the Defence Production Act with regard to priorities control in the defence field only.

2. TRANSPORT CONTROL (Regulations and appointments - P.C. 4535 and P.C. 4558 of August 29th, 1951).

Although transport control has only been used to a limited degree during the past few years, it has been represented that these Orders in Council should be continued in order that they may be available and used quickly in the event serious transportation difficulties should arise. It is anticipated that the mere existence of such control powers will make it unnecessary to use them and that the various transportation agencies will voluntarily cooperate and carry out any suggestions that might be made to them.

It is therefore suggested that the Department of Transport Act be amended to authorize the making of regulations and appointments for the purpose of continuing transport control.

3. GREAT LAKES SEAMEN'S SECURITY REGULATIONS (P.C. 2306 of May 22, 1952).

These regulations were established in the spring of 1952 at the instance of U.S. authorities who were threatening to prevent all Canadian ships carrying crews who did not have a security clearance from having access to U.S. docks and harbours in the Great Lakes. Canadian officials concerned with these matters were not convinced then and are not convinced now that these regulations are very effective nor, indeed, that they are really needed. It seems somewhat illogical that elaborate security measures should be taken with regard to shipping on the Great Lakes when nothing similar is done in such fields as railway transportation and the steel industry which are, if anything, more vitally important and more vulnerable than the Great Lakes system. In view of this rather anomalous situation, it would seem inadvisable to have permanent legislation enacted for the purpose of continuing these regulations in force.

Several alternative courses of action have been examined, none of which are entirely satisfactory.

It would be possible legally to continue the present Government machinery in existence on a purely voluntary basis and without any statutory sanction. Under such a scheme, ship owners would not make security clearance a condition of employment, but would simply notify their crews that the U.S. authorities might prohibit their landing on or passing through U.S. territory unless they had a security clearance and that, in the circumstances, it would

be in their own best interests to apply to the local National Employment Service office for a security card. This proposal, however, seems to be fraught with so many political and other difficulties that it was not given very much consideration.

A second course of action would be simply to notify the U.S. authorities that after May 31st next, there would no longer be any statutory authority for the regulations and that the Canadian Parliament was not likely to look favourably on the enactment of permanent legislation for such a purpose in peace time. From informal approaches that have already been made to the U.S. Embassy in Ottawa, it seems doubtful that the United States would accept discontinuance of these regulations without protest. They might even go to the length of insisting that all merchant seamen aboard Canadian ships tying up at U.S. ports or sailing through U.S. canals must be in possession of visaed passports.

A third course of action would be to introduce an appropriate amendment to the Navigable Waters Protection Act under which the regulations could be continued. In view of the considerations outlined above, however, it is suggested that any such amendment should not be written into the Navigable Waters Protection Act permanently and that provision should be made to have the amendment automatically cease to have effect on a given date, say three years from the date of enactment.

It is recommended that an effort be made in the first instance to obtain U.S. concurrence in a complete discontinuance of these regulations. If it appears, however, that this would result in restrictive action being taken by the United States against Canadian shipping or other Canadian movements across the U.S. border, it is suggested that steps be taken to introduce appropriate amendments to the Navigable Waters Protection Act which would provide the required authority to continue the Great Lakes Seamen's Security Regulations in existence after May 31st and which would contain a terminal provision under which the amendments would cease to have effect on a given date, say three years hence.

4. ORDER RELATING TO AIRCRAFT PILOT LICENSES AND RADIO OPERATORS' CERTIFICATES OF PROFICIENCY
(P.C. 4410 of October 30th, 1952).

This Order in Council, passed in the autumn of 1952 to meet

the case of a known communist who already had a pilot's license and was applying for a certificate of proficiency under the Radio Act, authorizes the Minister of Transport to refuse to grant pilot licenses or certificates of proficiency for radio operators when such a course of action appears to him to be required in the interest of the security of Canada.

It is one thing to pass an Order of this kind under authority of legislation such as the Emergency Powers Act and quite another to do so under normal peace time legislation. Furthermore, the degree of protection afforded by withholding pilot licenses and certificates of proficiency from known or suspected communists is ~~apt~~^{open} to some considerable doubt. In the circumstances, it is suggested that the Order in Council be allowed to lapse on May 31st, on the understanding that the Minister of Transport will have all applicants for pilot licenses and for certificates of proficiency under the Radio Act screened by the R.C.M. Police and will place the names of those applicants suspected of being disloyal on a special list. It would thus be possible to have the licenses and certificates of such persons revoked immediately upon the outbreak of hostilities or in a serious emergency.

5. OPERATION BY U.S.A. OF RADIO STATIONS IN CANADA (P.C. 3484 of August 8, 1951).

Under this Order in Council, the Minister of Transport is authorized "to grant permission, from time to time, to the Government of the United States to establish and operate by its servants or agents, at such authorized military establishments and authorized weather reporting establishments in Canada as he may approve, radio stations equipped with transmitting or receiving radio apparatus or both, and to employ or authorize the employment of radio operators in connection therewith who are not British subjects, such permission to be in such form and terms and on such conditions and for such length of time as he may deem advisable in the public interest."

It is recommended that an appropriate amendment to the Radio Act be introduced to provide authority for continuance in existence of this Order in Council.

6. ORDER RELATING TO WHEAT STORAGE SPACES NOT ELIGIBLE FOR LICENSES UNDER THE CANADA GRAIN ACT
(P.C. 5122 of September 26, 1951).

This Order was passed to overcome some of the difficulties caused by the shortage of transportation facilities and provides for deferral of the weigh-over of grain at terminal elevators and for the licensing of supplementary storage spaces not normally eligible for licensing under the Canada Grain Act.

It is suggested that this Order be continued under an appropriate amendment to the Canada Grain Act.

7. FREE ADMISSION OF PERSONAL GIFTS FROM ARMED FORCES PERSONNEL ABROAD
(P.C. 6598 of December 6, 1951).

This Order provides that personal gifts not exceeding \$25 in value and not including cigarettes, tobacco and alcoholic beverages, from members of the Canadian Armed Forces serving abroad to relatives or friends in Canada shall be admitted free of customs duty and excise taxes.

It is suggested that the substance of this Order in Council be continued in force by an appropriate amendment to the Customs Tariff.

8. CONTROL OF TRADE BY SEA WITH CONTINENTAL CHINA AND NORTH KOREA
(P.C. 1953-604 of April 17, 1953).

The Export and Import Permits bill, now before Parliament, provides the authority required to continue these controls.

9. SECRET ORDER
(P.C. 3486 of July 4, 1951).

This Order can be allowed to lapse, as alternative provision can be made to achieve the same purposes.

SUMMARY OF RECOMMENDATIONS

(a) Priorities Control - to be revoked and replaced by Orders in Council under existing provisions of the Defence Production Act with regard to priority controls in the defence field only.

(b) Transport Control - to be continued by an appropriate amendment to the Department of Transport Act.

(c) Great Lakes Seamen's Security Regulations - to be allowed to lapse unless this is likely to give rise to undesirable repercussions in the

United States in which event regulations to be continued under a terminable amendment to the Navigable Waters Protection Act.

- (d) Aircraft Pilot Licenses and Radio Operators' Certificates of Proficiency - to be allowed to lapse on the understanding that the Minister of Transport will have all applicants screened by the R.C.M.P. and place the names of those suspected of being disloyal on a special list for immediate action in event of serious emergency.
- (e) Operation by U.S.A. of radio stations in Canada - to be continued by amendment to Radio Act.
- (f) Licensing of supplementary wheat storage spaces - to be continued by amendment to the Canada Grain Act.
- (g) Free admission of personal gifts from Armed Forces abroad - to be continued by amendment of the Customs Tariff.
- (h) Control of trade by sea with Continental China and North Korea - provided for by Export and Import Permits Act now before Parliament.
- (i) Secret Order - to be replaced by appropriate statutory amendments.

If the recommendations set out above are approved, the undersigned will arrange to have the Department of Justice draft the required legislative amendments and will ask the Department of Finance to include an appropriate item in the Customs Tariff regarding gifts from military personnel abroad.

R. B. Bryce,
Secretary to the Cabinet.

Privy Council Office,
24 March, 1954.

March 23, 1954

P-50-2(b)
off

SECRET

Memorandum for Mr. Pelletier

REGULATIONS UNDER THE EMERGENCY POWERS ACT

1. PRIORITIES CONTROL (regulations and appointments)
(P.C. 2399 of 16th May 1951, P.C. 343 of 28th June 1951)

Mr. D.A. Golden, Assistant Deputy Minister of Defence Production, has advised me, as previously indicated by his deputy, these regulations may be revoked at the government's convenience. His opinion is that when they go out of force a new order in council will be necessary under the Defence Production Act setting up brief regulations for the control of priorities in the defence field, and, as at present, providing for the issuance by the Minister of Defence Production of priority orders. Priority control is now largely a matter of tying in with certain United States controls in the defence field.

2. TRANSPORT CONTROL (regulations and appointments)
(P.C. 4535 and P.C. 4558 of 29th August 1951)

Under the existing Transport Control Regulations, the Transport Controller is empowered to issue orders. Mr. W.J. Matthews, of the Department of Transport, is of the opinion that if, upon the repeal of the Emergency Powers Act, a new Act were passed or the Department of Transport Act amended to provide for transport control, it would probably be advisable

to have the regulation making power still vested in the Governor in Council with the Transport Controller authorized by such regulations to issue orders as at present. In short, if provision for transport control is to be continued and the Emergency Powers Act repealed, a further order in council would almost certainly be required under the new legislation.

4. AN ORDER RELATING TO AIRCRAFT PILOT LICENCES AND RADIO OPERATORS' CERTIFICATES OF PROFICIENCY
(P.C. 4410 of 30th October 1952)

Paragraph 4(1)(g) of the Radio Act provides that the Minister may make regulations for the examination of persons desiring to obtain certificates of proficiency as radio operators and to determine the qualifications in respect of age, term of service, skill, character and otherwise to be required by applicants for such certificates.

The regulations under the Aeronautics Act respecting the issuance of pilot licences are somewhat less specific. In effect, no person may act as a pilot in any aircraft unless he holds a certificate issued by the Minister of Transport authorizing him so to act. Certificates may be issued by the Minister and may be limited in time and to flying only under specified conditions, for specified purposes in specified types of aircraft, on specified routes or otherwise. A certificate may be suspended or cancelled at any time by the

Minister for cause, including the failure to comply beyond Canada with the provisions of these regulations.

If it is decided that the Radio Act provision is adequate to permit the Minister to carry on in the Radio Operators' Certificate field in the manner contemplated, perhaps you might consider an amendment to the regulations under the Aeronautics Act to make the powers of the Minister in the pilot licence field as specific as are the terms of paragraph 4(1)(g) of the Radio Act. I have asked the Department of Transport Air Services people to determine if there is anything in the Aeronautics Act of existing regulations, or in the government's policy, which would prevent the amendment of the Air Regulations as suggested, and I expect an early reply. The effectiveness of such an arrangement and the decision to make, it would however, seem to be matters upon which the Minister would have to make a decision. In passing, Matthews points out that the Radio Act and the Aeronautics Act and Regulations there under, were probably considered before the order in council under review was issued. In short, he appears to favour a new Act or an amendment to an existing legislation.

March 23rd, 1954.

M. W. C.

March 17, 1954. *OH*

B I L L

An Act to Amend the Official
Secrets Act

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

R.S. c.198.

1. Paragraph (g) of section 2 of the Official Secrets Act, chapter 198 of the Revised Statutes of Canada, 1952, is amended by striking out the word "and" at the end of subparagraph (ii) thereof, by re-lettering subparagraph (iii) thereof as subparagraph (vi) and by inserting therein, immediately after subparagraph (ii) thereof, the following subparagraphs:

- "(iii) any place where research relating to the defence of Canada is being conducted by the Government of Canada or by any person under the auspices of or agreement with the Government of Canada,
- (iv) any place where material, as defined in the National Defence Act, is being developed or improved,
- (v) any work or undertaking declared by section 18 of the Atomic Energy Control Act to be a work for the general advantage of Canada, and".

2. The said Act is further amended by adding thereto, immediately after section 2 thereof, the following section:

Unlawful
communication.

"2A. Every person who, without lawful authority, communicates or makes available to an agent of a foreign power, military or scientific information or any sketch, plan, model, article, note or document of a military or scientific character that he knows or ought to know may be used for a purpose prejudicial to the safety or defence of Canada, is guilty of an offence under this Act."

Repeal.

3. Paragraph (a) of subsection (1) of section 5 of the said Act is repealed.

4. Section 6 of the said Act is repealed and the following substituted therefor:

Interfering
with
officers.

"6. No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede any constable, police officer, guard or watchman, or any member of Her Majesty's forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place, and every person who acts in contravention of, or fails to comply with, this section, is guilty of an offence under this Act."

5. Section 7 of the said Act is repealed and the following substituted therefor:

Power to
require
production
of documents.

"7. (1) Where it appears to the Minister of Justice that such a course is necessary or expedient in the interests of the safety of the State, he may, by warrant under his hand, require any person who owns or controls any electromagnetic communications equipment used for the sending or receipt of communications to or from any place in or out of Canada to produce to him, or to any person named in the warrant, the originals or transcripts, or the originals and transcripts, either of all communications, or of communications of any specified class or description, or of communications sent from or addressed to any specified person or place, sent or received by means of any such electromagnetic communications equipment and all documents relating to any such communications.

Offence.

(2) Every person who, on being required to produce any original or transcript or document under subsection (1), refuses or neglects to do so is guilty of an offence under this Act."

6. The said Act is further amended by adding thereto, immediately after section 8 thereof, the following section:

Treachery.

"8A. Every person who, during any war in which Canada is engaged, willfully does anything that is designed or is likely to

- (a) assist the naval, army or air operations of the enemy,
 - (b) impede the operations of Her Majesty's Forces,
 - (c) prejudice the safety or defence of Canada, or
 - (d) prejudice the efficient prosecution of the war by Canada,
- is guilty of an offence under this Act."

7. Section 15 of the said Act is amended by re-numbering subsection (2) thereof as subsection (3) and by repealing subsection (1) thereof and substituting the following therefor:

Penalties for offences committed while state of war exists.

"15. (1) Every person who commits an offence under this Act while a state of war exists between Canada and another country is guilty of

- (a) an indictable offence and is liable
 - (i) to be sentenced to death or to imprisonment for life, if the offence is committed under section 2A, paragraph (c) of subsection (1) of section 3, paragraph (b) of subsection (1) of section 4, subsection (2) of section 4, or under section 8A;
 - (ii) to imprisonment for life, if the offence is committed under paragraph (b) of subsection (1) of section 3, paragraph (a) of subsection (1) of section 4, or under section 8;
 - (iii) to imprisonment for fourteen years, if the offence is committed under paragraph (c) of subsection (1) of section 4, subsection (3) or (4) of section 4, or under section 5 or 6; or
 - (iv) to imprisonment for ten years, if the offence is committed under paragraph (a) of subsection (1) of section 3 or paragraph (d) of subsection (1) of section 4; or
- (b) an indictable offence or an offence punishable on summary conviction, if the offence is committed under subsection (2) of section 7, and is liable

- (i) to imprisonment for two years, if he is convicted in proceedings by indictment, or
- (ii) to a fine of five hundred dollars or to imprisonment for six months, or both, if he is convicted in summary conviction proceedings.

(2) Every person who commits an offence under this Act while no state of war exists between Canada and another country is guilty of

- (a) an indictable offence and is liable
 - (i) to imprisonment for life, if the offence is committed under section 2A, paragraph (c) of subsection (1) of section 3, paragraph (b) of subsection (1) of section 4, or subsection (2) of section 4;
 - (ii) to imprisonment for fourteen years, if the offence is committed under paragraph (a) of subsection (1) of section 4, or under section 8;
 - (iii) to imprisonment for ten years, if the offence is committed under paragraph (b) of subsection (1) of section 3, paragraph (c) of subsection (1) of section 4 or subsection (4) of section 4;
 - (iv) to imprisonment for five years, if the offence is committed under paragraph (a) of subsection (1) of section 3, paragraph (d) of subsection (1) of section 4, subsection (3) of section 4, or under section 5 or 6, or
- (b) an offence punishable on summary conviction, if the offence is committed under subsection (2) of section 7, and is liable to a fine of five hundred dollars or to imprisonment for six months, or both."

FOR INFORMATION

RESTRICTED

To MR. BRYCE.....

The attached letter is for your signature. It has been seen and approved by Mr. Pelletier, and results from the fact that United States authorities have turned down our suggestion that the Great Lakes Seamen Security Regulations should be allowed to lapse with the Emergency Powers Act at the end of May.


P.M.D.

000111

MEMORANDUM

RESTRICTED

Privy Council Office

Ottawa.....February 9, 1954.

MR. PELLETIER

I attach a draft letter to
Mr. Varcoe about the Great Lakes
Seamen's Security Regulations for your
consideration.


~~P.M.B.~~

000112

Mr. Dwyer

I think this should
probably be signed by
Mr. Bryce



000113

P. 50-2(b)
off

Ottawa, February 10, 1954.

Mr. F.P. Varcoe,
Deputy Minister of Justice,
Justice Building,
O t t a w a.

Dear Mr. Varcoe:

At the meeting of September 9th, 1953, the Cabinet considered what action should be taken with respect to the Emergency Powers Act which will lapse on May 31st, 1954, unless an extension is made by legislation. The Cabinet decided that the Orders and Regulations now in effect under the Act should be examined to determine which might be revoked and which might require extension should the present enabling legislation be allowed to lapse. One of the Orders made under the Emergency Powers Act is the Great Lakes Seamen's Security Regulations. These Regulations, which in effect empower the Minister of Labour after a security screening by the R.C.M. Police to prevent any person from serving on board a Canadian ship in the Great Lakes whose presence might prejudice the security of Canada, were originally made as a result of considerable pressure from the United States government.

The Security Panel did not then and does not now consider these Regulations to be necessary. Therefore, as a result of a re-examination of the whole problem by the Security Panel, an approach was recently made to the United States government suggesting that in view of the legislative problems involved the Regulations might be allowed to lapse. The reply from the United States authorities is to the effect that they consider it most necessary for the security of their own Great Lakes locks and ports that these Canadian Regulations should be continued.

Unfortunately we cannot overlook their point of view, since Canadian seamen at present enjoy a privileged position under the McCarran Act. If the present Regulations were allowed to lapse it is not unlikely that the full provisions of the McCarran Act may be brought to bear on Canadian seamen in United States ports on the Great Lakes. This would in effect mean that each Canadian seaman would have to carry a passport containing a United States visa for each trip made. Such a requirement would be most inconvenient, to say the least, and would probably severely hamper Canadian shipping.

I should therefore be grateful if your department would give us an opinion as to whether or not there is any means, other than new legislation, by which the security screening of Canadian seamen could be continued. Would it be possible, for instance, for the Department of Labour, in the absence of the Emergency Powers Act and the Regulations made thereunder, legally to continue the security screening and the issuance of identity cards for all seamen who voluntarily apply for them? And would it be possible for the shipping companies, provided the unions agreed, legally to make the holding of such cards a condition of employment? If this were possible the same standards of security could be maintained and the United States Immigration and Naturalization Service would continue to treat Canadian seamen as a privileged group.

If in the opinion of your department such procedures would not be legal, I should be very grateful for any suggestion you could make as to whether there is any existing legislation such as, for example, the Navigable Waters Protection Act or the Canada Shipping Act, which could by amendment be made to provide the necessary powers.

Yours sincerely,

R.B. Bryce,
Secretary to the Cabinet.

February 8, 1954

RESTRICTED

P-50-2(b)
off

MEMORANDUM TO MR. PELLETIER

Great Lakes Seamen Security Regulations

Mr. Crean and I had a conversation Friday morning with Mr. Meyer of the United States Embassy on the subject of continuing the Great Lakes Seamen Security Regulations. The Department of External Affairs, on the recommendation of the Security Panel, had acquainted the United States authorities in Washington with our wish to allow these Regulations to lapse.

2. Mr. Meyer read us a letter he had received from Washington which set out the United States Coast Guard's views on our tentative proposal. The Coast Guard's view is that the security screening of Canadian Great Lakes seamen should continue, since in their opinion the threat from sabotage to locks in the Great Lakes system from individual seamen remains.

3. Mr. Crean and I therefore put to Mr. Meyer the Panel's alternative suggestion that an informal arrangement be made with Canadian companies whose vessels ply to United States ports, so that the present security screening standards might be maintained on an informal basis. Mr. Meyer asked if the Canadian government could by this arrangement give assurance to the United States government that all Canadian seamen touching at United States Great Lakes ports would have received a security clearance. We pointed out to Mr. Meyer that the only assurance the Canadian government could give under these circumstances would be that the shipping companies had agreed to employ only seamen who had the necessary clearance. We also suggested that possibly a company identity card might be issued which would indicate that a security clearance had been made. But even under these circumstances the assurance in effect could not go beyond what we had already indicated.

4. Mr. Meyer seemed to doubt if an assurance of this kind would be satisfactory but agreed to pass

...

it on to Washington. But Mr. Crean and I doubt that it will be accepted. Mr. Meyer also took this occasion to point out how important a satisfactory agreement would be since, if one were not reached, the full force of the McCarran Act might have to be brought to bear, and this would mean that Canadian seamen entering United States ports on the Great Lakes would be required to carry a passport containing a visa for each separate trip made.

5. You will appreciate that from the Canadian point of view this would be quite intolerable and, in addition, useless from the United States point of view since a Canadian passport is not a security document. In addition, it might lead us into the sticky problem involving the withholding of passports from known communists, a procedure which has never been followed by the Canadian government.

6. Mr. Meyer asked if the problem might be resolved by seamen being asked to apply to the government voluntarily for an identity card. Seamen who did not do so would then be submitted to various inconveniences on arrival at United States ports. Mr. Crean made it quite clear that we did not like this suggestion.

7. We shall therefore have to wait until we receive an answer from Washington to our alternative proposal, but we should like you to know that we expect it to be turned down. Nevertheless we could, if you wish, arrange for the Department of Labour to obtain informally the reaction of the companies and unions to the alternative proposal. At the same time, perhaps we should give thought as to whether or not other enabling legislation will have to be sought. We made it clear to Mr. Meyer, however, that we expect to encounter very considerable difficulty in doing so.


P.M.D.

Ottawa,
February 8, 1954.

c.c. G. Crean

MEMORANDUM

MR. PELLETIER:

I have read this over with considerable interest. I do not myself see a very strong case for making a large distinction between treason in war and treason in peacetime in so far as it concerns the seriousness of the effects of the treasonous acts. However, I suppose from the point of view of penalty, what is important is the public attitude and the seriousness of the moral judgment rather than of the consequence of the crime, and that no doubt does change as a result of the outbreak of war.

I will be surprised if the Opposition lets you get away with it, but I would think that even though you have to bring out the fact that you considered it necessary to include the type of communication which is not explicitly mentioned but covered, it would not necessarily create a furore.

R.B.B.

Mar.18/54

P-50-261

RBB
PMD

for info.
[Signature]

SECRET

Ottawa, January 26th, 1954.

MEMORANDUM FOR THE PRIME MINISTER

I thought you might possibly be interested in the attached note I have to-day sent Mr. Garson, together with a first draft of what might possibly form the basis of a statement to be made in the House of Commons on second reading of the proposed amendments to the Official Secrets Act.

The statement has purposely been made long, rather involved and to some extent repetitive. It was thought that a long discourse of this nature, which would stress the treason angle and the advisability of modernizing some of the more obsolescent features of the legislation, might help to get the true purpose of the amendment to Section 7 "lost in the shuffle".

For your convenience, I am also attaching a copy of the latest draft of proposed amendments to the Official Secrets Act. This has yet to be put in final form by the Department of Justice.

*Please return
to Mr. Palletter
M.L.*

[Signature]
P.P.

SECRET

Ottawa, January 26th, 1954.

The Honourable Stuart Garson,
Minister of Justice,
Ottawa.

Official Secrets Act amendments

Dear Mr. Garson,

Following our telephone conversation last week, I am attaching hereto a draft statement for use on second reading of the bill to amend the Official Secrets Act.

If you feel that the attached draft generally strikes the right note you will wish, no doubt, to have the "legal history" which forms the first part of the statement checked with officers of your Department, as we, in this office, are anything but experts in this field.

Quite apart from the difficult amendment to Section 7, there is another matter about which I am somewhat concerned. That is the use of the expression "safety or interests of Canada" throughout the Official Secrets Act. Section 46(1)(e) of the Criminal Code Revision, as it now stands, uses the expression "safety or defence of Canada" and this has been transferred into Section 2A of the draft bill to amend the Official Secrets Act, which I left with you the other day. The resulting juxtaposition of the two expressions may well give rise to a heated debate in the House of Commons, as happened in the Senate Committee on Banking and Commerce last year. I would appreciate an opportunity to discuss this with you.

.....2

May I assume that it is now agreed by yourself and the Prime Minister that the Emergency Powers Act is to be allowed to lapse on May 31st? If so, should I

- (a) ask Mr. Driedger to prepare the final draft of the bill to amend the Official Secrets Act; and
- (b) proceed with arrangements to provide suitable alternative statutory or other authority for the various orders-in-council that have been passed under the Emergency Powers Act and are to be continued in force after May 31st.

In any event, do you not think that this question might usefully be raised in Cabinet before the Prime Minister leaves on February 4th, in order that the other Ministers may be informed of what is being planned.

Yours sincerely,

Paul Palletier,
Assistant Secretary to the Cabinet.

DRAFT STATEMENT ON MOVING THE SECOND READING OF
THE BILL TO AMEND THE OFFICIAL SECRETS ACT

When the revision of the Criminal Code was under discussion recently in the House it was agreed that paragraph (e) of sub-section (1) of Section 46 should be omitted from the revised Code on the understanding that the Government would introduce an amendment to the Official Secrets Act containing the substance of the paragraph which by agreement had been deleted from the Code. The amendment which contains this paragraph now appears as clause 2 of the Bill at present before the House. In addition, the Bill contains a number of other amendments which the Government feels will substantially improve those parts of the Act which are outdated and put its provisions more in accord with the sort of problems that have to be met in relation to national security to-day.

2. But before considering these additional amendments, I should like to examine in some detail the reservations which were expressed both in this House and in the Senate concerning this clause when it was under discussion as paragraph 46(1)(e) of the Criminal Code.

3. The Statute of Treasons of 1351, 25 Edward III, Statute 5, chapter 2 contains an interesting piece of advice which I would like to pass on to this House. It says: "And because that many other like Cases of Treason may happen in Time to come which a Man cannot think nor declare at this present Time; it is accorded, that if any other Case, supposed Treason which is not above Specified, doth happen before any Justices, the Justices shall tarry without going to judgment of the Treason, till the Cause be shewed and declared before the King and his Parliament whether it ought to be judged Treason or other Felony." Although this advice is directed towards a particular case which may arise, I feel nevertheless that it has a general application and may be construed as advice to people in time to come to consider carefully what is treason and what is not treason. Now, as a Scotsman, I hold no particular brief for Edward III whose relations with my forebears leave much to be desired; but I am not, and I am sure this House is not, above taking good advice wherever it may come from, and I think that even though six hundred years have passed this remains good advice, and that we should do well once again to re-examine our own concepts of treason.

4. The first clear definition that we have of treason is to be found, I think, in the Statute of 1351 which I have just quoted to you. In the mediaeval society in which the Statute was drafted treason was an offence against the person, the representatives or the personal rights of the King. It contains seven offences: (1) to encompass or imagine the King's death, the Queen's death or that of the heir to the throne; (2) to levy war against the King in his realm; (3) to adhere to the King's enemies; (4) to violate the King's wife, the wife of his eldest son or his eldest daughter; (5) to issue false money; and (6) to kill the Chancellor, Treasurer, King's Justices of either bench or of assize in the discharge of their office/s. Anson in his "Law and Custom of the Constitution" says - and I should like to emphasize this interpretation - : "One cannot fail to notice the personal character of all these offences. The King - not the Crown in Parliament or the State as embodied in the existing constitution - is the object which the Statute designs to protect. The King's person; the King's sovereignty, the King's family relations; the indicia of the royal will in administration, the seals; the representatives of the royal will in judicature, the Chancellor and Judges; the privileges of royalty; the coinage: these are what a feudal society thought it treason to infringe."

5. In the United Kingdom the treasons of 25 Edward III still remain treasons on the Statute book. But as society developed from the mediaeval society to the absolute monarchy of the Tudors, and from that (after the displeasing but perhaps salutary performance of Oliver Cromwell) to the constitutional monarchy, and as the seat and source of power was wrested from the King by Parliament so the concept of treason changed. In the mediaeval society of Edward III acts directed against the person of the King were conceived as high treason. But in addition every lord was "sovereign" to his man and every master to his servant. Therefore to kill one's lord was also treason though it was distinguished from an offence against the person of the monarch by being described as petty treason.

6. The royal prerogative and the absolute monarchy of the Tudors, however, affected their relations with every subject, and the conception of sovereignty and the single instance

of petty treason almost disappeared in one conception of sovereignty and the single notion of high treason. Pollard in his "Evolution of Parliament" has aptly pointed out that a King who demands the undivided loyalty of his subjects runs the risk of their undivided disaffection. As a result, under the Tudors the concept of treason was broadened and additional treasons, even though they were subsequently repealed, were added to the Statute book. At the same time extensions by construction of the Statute of Edward III were made and gave rise to what modern commentators have defined as "constructive treason". Because as the constitutional monarchy developed, and while treason against the King's person remained, there also arose the concept of treason against the State as something distinct and apart from the person of the King.

7. As a result of this - and indeed I have so argued before the standing committee on Banking and Commerce in the other place - we have now a wider concept of treason which embraces not only acts directed against the Sovereign's person and family but also against the safety of the State. The amendment contained in clause 2 of the Bill before the House is concerned with an act directed against the safety of the State and can be - and indeed I believe is - a treasonous act.

8. Now I should like to draw to the attention of this House the precedents which we have before us in the United Kingdom in legislating against treasonous acts. We might well, I think, have expected that as the State broadened from the personal, absolute monarchy of the Tudors into the parliamentary system of government so the area covered by the Statutes of Treason would similarly extend. But this did not happen. Although the number of acts which a man might do and which were considered treasonous acts increased, they were not provided for by an extension of the Statutes of Treason. They were provided for in legislation as felonies, treasonous felonies; and indeed some acts which were provided for in the original Statutes of Treason of 1351 were subsequently dealt with as felonies. This subsequent legislation did not abrogate the Treason Act of 1351 but merely provided an alternative remedy. For instance, forgery of the Great or Privy Seal, forgery of the King's coin and counterfeiting were originally treated as high treason; and this was the law until 1832 in the United Kingdom. But these offences are now felonies under the Coinage Offences

Act of 1861 and the Felony Act of 1913. A series of Statutes beginning in 1744 in the United Kingdom provide for the punishment as felonies of certain acts which might fall within the definition of treason - for example, piracy in 1744, incitement or mutiny in 1797, unlawful oaths; including oaths to commit treason in 1812 and aiding the escape of prisoners of war again in 1812. That an act of treason must be a felony was clearly expressed in 1667 by Sir Heneage Finch, afterwards Lord Chancellor, during the parliamentary proceedings against Clarendon when he said: "And though I know not what the legislative power of a Parliament can do, yet it is not in the power of Parliament, King, Lords nor Commons to declare anything to be treason which is not common-law felony before". By the Treason Felony Act of 1848 it became a felony, punishable by penal servitude for life, either in or out of the United Kingdom to deprive or depose the King from the style of the imperial crown of the United Kingdom, to levy war against the King in any part of the United Kingdom in order to put force or constraint on or to intimidate or overthrow either or both Houses of Parliament, and to move or stir any foreigner with force to invade the United Kingdom or any of the King's dominions. In considering these precedents we may, I think, finally note that apart from the case of Lynch in 1903 and of Casement in 1916 all prosecutions in England since 1848 for treasonable offences have been made for felony under the Act of 1848.

9. I apologise for inflicting on the House this long discourse on the slow evolution of the concept of treason in the United Kingdom since it was first crystallized in legislative form under Edward the Third. I have only done so in the hope that these precedents may help us all to reach a clearer understanding of the essence of the offence with which we are now concerned and to appreciate some of the reasons which may have prompted the Criminal Code Revision Commission to transfer the offence from the Official Secrets Act to the Criminal Code and which now prompt the Government to suggest that this offence, as modified by both Houses while the Code was under discussion during the last session, should be brought back to rest within the framework of the Official Secrets Act.

10. As I said a moment ago and as I stated last year in the other place, the offence recited in Section 2(a) of the bill before the House is,

I am convinced, a treasonous act. Indeed, in this atomic age, it may sometimes be one of the most heinous forms of treason. The fact remains, however, that the various forms of treason which have been left in the Code are very close to the original concept of treason, as understood in mediaeval society while the offence with which we are concerned, as well as all other offences under the Official Secrets Act, are less direct forms of treason which might perhaps better be described as treachery. It may well be that the Criminal Code Revision Commission, in recommending that the offence be included in the Criminal Code, was largely influenced by the fact that the maximum penalty at the present time under the Official Secrets Act is fourteen years, and that such a penalty may be considered as inadequate for certain offences that may be committed under the general heading of unlawful communication of secret information, particularly when such offences are committed in time of war. Section 46 of the Code appeared at the time to be a good niche for such an offence since this section was concerned with treason and since the related maximum punishment in the Code was much more severe than the fourteen years provided by the Official Secrets Act.

11. I do not propose to recall in detail the various permutations to which this particular offence was subjected in Parliament during the last session. Suffice it to say that it was felt in ^{the} other place, no doubt with some justification, that the offence was then couched in terms too broad to warrant a maximum penalty of death or life imprisonment in peacetime and, consequently, the offence was moved to another section of the Code carrying a maximum penalty of fourteen years.

12. When the Criminal Code Revision came back to this House, the offence was reinserted in the treason clause but was restricted to the conveying of "military" or "scientific" information. There may be those, however, who feel that even in its restricted form this offence should not carry with it a possible maximum penalty of death in peacetime. The thought occurred to me some time ago that it might be possible to leave this offence in the Criminal Code and provide different penalties for peacetime and wartime commissions. On reflection, however, this course of action seemed to me undesirable as it would introduce a rather new concept in the Criminal Code which, after all, is our permanent legislation

on criminal matters. Whether the country is at war or not, murder, for example, should and does carry the same punishment. For this reason I felt that it would be best to leave in the Code only these forms of treason for which the degree of punishment should remain constant, whether or not a state of war existed. I think most Honourable Members will agree that the divulging of an item of secret information to a foreign agent may have much more serious consequences in time of war than in time of peace and therefore should carry a more severe punishment.

13. The logical sequel to this line of reasoning is that the Official Secrets Act itself should be divided in two parts, - the one covering offences committed in peacetime and the other covering the same offences committed in wartime. This has been done by Section 7 of the bill before the House. It is the opinion of the Government that this is a very necessary distinction. Because of the frightful nature of the weapons now in our hands and in the hands of a future enemy, any offence against the Official Secrets Act may be far more serious if it is committed at a time when these dreadful instruments of annihilation are being used by mankind against mankind. We must hope that such a time will not come, but should it come we must be prepared for it. There can, I think, be little doubt that an offence committed at such a time is more wicked because its results may be more horrible.

14. As the Act stands at present, a person who is found to be careless in the handling of a secret document, and whose carelessness results in the information it contains falling in the hands of a foreign agent, is subject under the Act to the same penalty as a person who deliberately provides a foreign agent with information about a new weapon. The courts, of course, can and do exercise discretion as to what penalty they will inflict, and I do not imagine that the careless person and the spy would be awarded the same penalty in any court in Canada. Nevertheless, the Government feels that not only should a distinction be made between offences committed in time of war and those committed in peacetime, but also that the penalties should be graduated and related to the gravity of the offence in both circumstances.

15. In graduating these offences we have been at great pains to provide maximum penalties properly related to the nature of the particular offence. The Government is of the opinion that some offences against this Act can be so heinous and so frightful in their results that the extreme penalty is called for. Honourable members will have noted that for these gravest of offences the penalty of death in wartime is provided. For peacetime breaches of the Act, the maximum penalty does not, in any case, exceed life imprisonment. However, I do not wish at this time to examine the penalties in relation to the offences in any detail. My object is only to make clear the Government's intention to ensure that as far as possible the Act adequately meets the conditions in which a modern society unhappily finds itself.

16. There is one point I should like to make clear without further delay. Section 2(a) of the bill now before the House, although it refers only to "military" and "scientific" information, is already covered in more general terms by the provisions of Sections 3 and 4 of the Official Secrets Act. In the circumstances, some Honourable Members may wonder why there is any need for this new section. The reason for the inclusion of this particular section in the present bill is really twofold. In the first place, the offence as recited in section 2(a) is considerably more specific than the related but more general offences set out in sections 3 and 4 of the Act and its inclusion might serve some useful purpose such as, for example, presenting what might in some cases be considered a more appropriate charge, particularly for peacetime offences, than would be possible under sections 3 and 4. The second reason for including it in the bill is that both Houses devoted much time and thought to this question during the last session and the government felt it preferable simply to insert here the substance of the clause as approved by the House before prorogation of the last Parliament in order that there be full opportunity to discuss the appropriateness of adding such a section to the Official Secrets Act. The Government has an open mind on this score and if a majority of the House feels that it is sufficient to provide appropriate increases in the maximum penalties now provided ~~for~~ certain offences recited in the Act (and this is done under section 7 of the bill), then we would have no objection to the deletion of Section 2(a).

17. Now I come to the other amendments which are contained in the Bill before the House. These amendments are designed primarily to relate the Official Secrets Act more closely to the conditions of modern society and to the particular problems with which we are faced as a result of the technological developments of modern warfare - and especially to the ever increasing endeavours of agents of foreign powers to obtain the secrets of these scientific developments.

18. The Official Secrets Act was prepared and passed in some haste in 1939 when war was imminent. Up to that time there had been no provision of this sort in Canada. The Act was virtually a copy of legislation that had been passed in the United Kingdom dating from the first world war and earlier. At the time we were primarily concerned with protecting this country from the German intelligence service, and during the intervening period it has provided a large measure of protection. But it reflects the approach to these problems of a much earlier period. Since that time the development of the communist parties throughout the world and of the Soviet and satellite secret intelligence services, together with many new secrets resulting from technological advances, has created new internal security problems and widened the objectives of espionage beyond those envisaged when the Official Secrets Act was originally drafted. The activities and techniques of intelligence services do not remain static, and therefore it is essential that legislation designed to protect a country against their work must from time to time be reviewed.

19. Since by the proposed amendments the Official Secrets Act will in future provide a particular set of penalties for offences committed in time of war, it has seemed judicious to the Government to include among the amendments to the Act substantive provisions of the Treachery Act which was, of course, purely wartime legislation. These new provisions appear under clause 6 of the Bill before the House. I am aware that they are not concerned specifically with official secrets but they are, I think, so clearly related to the kind of offence dealt with under the Official Secrets Act that I feel it is wise to place them on the Statutes in an act which is to provide particular penalties for offences committed in time of war.

20. Under clause 5 an amendment is made which in effect re-words subsection (1) of Section 7 of the present Act. This, like the amendment contained in clause 1, is designed to meet the advances which have been made in modern technology. As it stands at present the section enables the Government to require a telegraph company to turn over copies of telegrams sent to a place outside of Canada or from a place out of Canada. The purpose of the provision is, of course, to enable the Government to ascertain in a suspected case whether communication of information that is protected by the Act has in fact taken place. The assumption underlying this section is that all important communications to a foreign power take place from within Canada to a place outside of Canada. It is, however, a matter of common knowledge to-day that the communication is equally likely to take place within the boundaries of the country itself. The development of "cells" and "contact men" and of the deliberate use of several stages in the chain of communications from an espionage agent means that vital acts of communication are likely to take place within Canada. We have had ample opportunity here to observe the machinery of such an organization in the report of the Royal Commission which examined Igor Gouzenko. For that reason a section that enables our security authorities to require the turnover of copies of telegrams only when they are sent to or from a place outside of Canada is not realistic. Communications made by spies within Canada are perhaps of more immediate concern to our security organization than those sent into and out of the country. That is not to say that the latter should be overlooked, and a provision to ensure that the Minister of Justice may have produced to him such communications must remain within the Act. It is, however, essential that this power should be extended to cover equally vital communications made within the country.

21. In one further respect this section has become out of date on this point. In 1914 the only means of communication over distance - apart from the mails - was by a telegraphic cable or wire or by wireless telegraphy. These are the terms in which the Act is couched and they were undoubtedly intended to be all-inclusive at the time. The prefix "tele" is the Greek "far off" and "graph", while usually related to writing, includes anything that "writes, portrays or records". The meaning of "telegraph" as a verb

is to "write, portray or record at a distance". The terms would probably still be interpreted as including all means of communication at a distance by wire or wireless. However, popular usage has tended to limit the terms "telegraph" and "telegram" to one particular means of communication. To-day we have teletypes, radiograms, radio photographs, pictures sent by wire, and other devices that had not been developed forty years ago and, in some cases, were certainly not in common use fifteen years ago. The term that would be used to-day to cover communications of this sort and the term that has been used in a number of acts passed by the Parliament of Canada in recent years - is "electromagnetic communications". That is the scientifically correct term to describe the methods of communication that the Act is intended to cover. In the present amendment the language of the Act is adjusted to modern terminology.

22. The Official Secrets Act is one of those rather distasteful pieces of legislation that have been forced on the people of Canada, and on the people of many other peaceful and democratic countries, by the harsh circumstances of international affairs to-day. The need for such legislation has become the greater with the necessity of protecting ourselves against the dangers from within that are created by the misplaced loyalties that communism has developed. I am as aware as other Honourable Members that this is the sort of enactment we would prefer to avoid. However, in the light of experiences since the war, both here and in other countries, no one can, I think, doubt that it is essential to have provisions that will adequately protect information that could be used to the prejudice and danger of this country. Whether we like it or not, the legislation is necessary and it is the duty of the government to recommend such changes from time to time as will best adapt it to the ends it must serve. The present amendments are designed for that purpose.

CROSS REFERENCE SHEET

CONFIDENTIAL

Name or Subject	File No.
PRIVY COUNCIL - <u>Law and Practice - Emergency Powers Legislation - Official</u>	<u>P-50-2(b)</u> Offl.
Regarding	Date
Memo re security screening of Cdn Great Lakes seamen - rep'tg. re decision of the Security Panel Nov. 20/53 concerning approach to U.S. re continuation of the Great Lakes seamen's security regulations - att. copy of note handed to Mr. Bliss & advising re his undertaking in the matter - outlining suggestion made to Mr. Bliss in view of proposed discontinuance of the Emergency Powers Act - advising that Mr. Mayer will be handling matter in Mr. Bliss' absence & anything concerning the problem will be discussed with Mr. Kidd -	January 9, 1954.

SEE

Name or Subject	File No.
G.G. Crean to G.P. Kidd -	<u>S-100-9</u> Offl.

1953


Ottawa, December 9, 1953.

MEMORANDUM TO MR. PELLETIER

I refer to your memorandum to Mr. Garson entitled "Emergency Powers Act: Possible Discontinuance". Two comments occur to me.

- (1) In connection with section III of your memorandum headed Conclusion, would it be worthwhile warning Mr. Garson that it appears almost inevitable that someone will in fact ask questions relating to the real purpose of the proposed amendment to section 7(1). It would, I think, be very surprising if this does not happen, and I wonder therefore if it is worthwhile reminding Mr. Garson of the sample questions and answers which Gordon and I drew up for him. They do serve to show the kind of embarrassment he may have to face.
- (2) There are one or two inaccuracies in item 4 of appendix "A" on the subject of P.C. 4410 of October 30, 1952. Contrary to what the second paragraph of this item says, we are not screening all applicants for Pilot's Licenses and Certificates of Proficiency under the Radio Act. We are only screening applicants for first and second class Certificates because these persons have the right to use government controlled transmitters. The special watch list is made up from names which may come to light by this screening, and from names reported by R.C.M.P. divisions who have been asked to pay special attention to persons in these

categories who may come to their
attention because of undesirable activities.


P. M. D.

MEMORANDUM FOR MR. GARSON

Emergency Powers Act: possible discontinuance

This memorandum and appendices set forth the information you requested concerning the various steps that could or should be taken if the Emergency Powers Act is allowed to lapse on May 31st next and, also, regarding certain amendments the government might wish to sponsor with respect to the treason provisions of the Criminal Code Revision. Much of this material was prepared by, or in consultation with Mr. Driedger and Mr. MacLeod of your Department, Commissioner Nicholson of the R.C.M. Police and Mr. Dwyer of this office.

1. Orders in Council under the Emergency Powers Act.

At the present time eleven Orders in Council passed under the Emergency Powers Act are still in effect although they relate to only nine separate subjects (in some cases two Orders in Council have been passed concerning the same subject - one for regulations and another for appointments).

In order to ascertain how many of these Orders in Council could be allowed to lapse and how many should be continued, this office conducted a survey amongst the various departments charged with the administration of these Orders. The results of this survey (details of which are shown in Appendix "A" hereto) would indicate that, of the eleven Orders in Council still in effect, two (Priorities Control Orders) can be revoked, four (Transport Control Orders, Great Lakes Seamen's Security Regulations, and Order relating to pilot licenses and to radio operator certificates of proficiency) may or may not be revoked and five should be continued either by amendments to existing legislation or, in one case, by introduction of a new Tariff item.

Of all these Orders in Council, only one, the Secret Order (which could be continued under an amended Official Secrets Act) presents any real difficulties.

As you know, it has been contended that the Secret Order could be continued in force under the authority conferred by Section 7(1) of the Official Secrets Act as it now stands except for two things. In the first place, Section 7(1) refers exclusively to telegraphy, telegrams, telegraphic apparatus etc. and although, from the purely etymological point of view, the word telegraphy includes all types of electromagnetic communications it has, in the popular mind, been restricted to the Morse code type of wireless telegraphy. A second difficulty is that Section 7(1) refers only to messages to or from points outside of Canada when, in practice, effective security requires that access may be had as well to messages between points inside Canada.

It would likely be impossible to introduce an amendment to Section 7(1) alone and prevent the real purpose of the amendment from becoming common knowledge. The most effective smoke-screen to blanket this purpose would doubtless be a complete revision of the Official Secrets Act which Act, as you know only too well, is obsolete or at least obsolescent in many respects and is sorely in need of revision. The obvious disadvantage to introduction of such a revision is that such contentious clauses as Section 3(2), for example, would be thrown open to debate with the possibility that the very wide powers conferred by these sections might be substantially diminished and this, according to Commissioner Nicholson, would seriously hamper the anti-subversive activities of the R.C.M. Police. Another objection to introduction of a complete revision is that, according to Mr. Driedger, it may not be possible to complete the drafting, introduce the bill and have it passed before the dead-line of May 31st. A compromise suggestion is that the fundamental issue involved in the amendment of Section 7(1) might be more or less successfully beclouded by the simultaneous introduction of certain other amendments for which there appears to be an obvious need but which do not have contentious implications.

II. Criminal Code; Official Secrets Act; Treachery Act

While the problems arising out of the possible discontinuance of the Emergency Powers Act after May 31st were being considered, thought was also being given to the

difficulties experienced in both Houses of Parliament over Section 46(1)(e) of the Criminal Code relating to the communication of classified information to agents of a foreign country. The special meeting of ministers you convened some time ago was indicative of ministerial feeling on the subject of imposing the death penalty for offences of this kind committed in peace time. As you requested, I am attaching hereto, as Appendix "B", a short history of the various permutations this clause has been subjected to since the Code Revision was first introduced in the Senate.

In the light of the considerable divergence of views that exists in the Senate, the House of Commons and elsewhere as to the place (if any) that a clause of this nature should have in the Criminal Code, I suggested to you, in my note of November 3rd, that the solution to the problem might possibly lie in a rather different approach. Briefly, the suggestion was that as the Criminal Code was essentially permanent legislation it should contain only those offences which might logically entail the same degree of punishment whether the country was at war or at peace. If this premise is accepted, not only Section 46(1)(e) but also Section 46(1)(c) had best be deleted entirely from the Code since Paragraph (c) presupposes that Canada is at war and since paragraph (e) might very well carry a different punishment depending on whether this type of offence is committed while Canada is at war or at peace. Consequently, peacetime offences under paragraph (e) might be covered by an appropriate amendment to the Official Secrets Act (which is also essentially permanent legislation) and paragraph (c) and wartime offences under paragraph (e) might be included in a revised Treachery Act to be enacted now and proclaimed in force if and when Canada again became engaged in hostilities. Thus, the Treachery Act would become a sort of companion-piece to the War Measures Act and would remain on the Statute Book but inoperative as long as Canada remained at peace.

This course of action has several advantages. In the first place, as you pointed out the other day, there are at present in the Criminal Code Revision under the heading

treason certain things that are actually treachery. The proposal set out above would confine treason to the Code and treachery to the Treachery Act and, to a more limited extent, to the Official Secrets Act.

Set out in Appendix "C" are first drafts of the substantive clauses that might be included in the Criminal Code, the Official Secrets Act and the Treachery Act. You will note that the punishment for treason is death, the punishment for communication of classified information to foreign countries in time of peace is up to life imprisonment and the punishment for treachery (including the unauthorized communication of classified information in wartime) is death or life imprisonment. This should meet the objection that communication of classified information to foreign agents in time of peace should not carry with it a possible sentence to death as is the case under Sections 46(1)(e) and 47(1)(b) of the Criminal Code Revision as it now stands.

Perhaps one of the greatest advantages of the proposal set out above is that it provides the best smoke-screen (short of a complete revision of the Official Secrets Act) for introduction of the desired amendment to Section 7(1) of the last named Act. In other words, the overt reason for opening the Official Secrets Act would be for the purpose of putting some order and logic in the treason and treachery provisions now included in the Criminal Code rather than for the purpose of amending Section 7(1). Other amendments to the Official Secrets Act which might be made, at the same time, to thicken the smoke-screen without touching any of the more contentious part of that legislation might include the following:

- (a) An amendment to the definition of "prohibited places" to include "research establishments". This would seem a reasonable extension in view of modern technological development and its importance to defence.
- (b) An amendment to Section 5(1)(a) regarding the unauthorized use of uniforms. This provision dates back to the days before 1914 and has little or no application to modern espionage.

- (c) An amendment to include a new section containing penalties appropriately graduated according to the seriousness of the offences detailed in the Act. At the present time the maximum penalty is fourteen years. If such a new section is included we will have to make sure that it does not relate to offences cited in any of the more contentious portions of the Act as, under the rules of the House as they now stand, it may be difficult to prevent debate on the sections to which the proposed new penalty clause might refer.

In so far as the substantive amendment to Section 7(1) is concerned, I am attaching, as Appendix "D", Mr. Driedger's draft of the sort of section that might be deemed to confer authority sufficient to continue the Secret Order in effect after the Emergency Powers Act has lapsed.

III. Conclusion

Even if it is agreed that the Criminal Code, the Official Secrets Act and the Treachery Act should be amended in the manner set out above for purposes that have patently nothing whatever to do with the Secret Order, there is more than a remote possibility that someone may ferret out the real purpose behind the amendment to Section 7(1). If this occurs and direct questions are asked, refusal to answer such questions might possibly reveal the true nature of the Secret Order nearly as effectively as a straightforward admission would. In the circumstances, it remains for consideration whether the advantages to be gained by letting the Emergency Powers Act lapse are sufficient to run the risk of having the effectiveness of the Secret Order perhaps somewhat reduced by making it possible for certain persons to guess correctly what it is all about.

In the event the Government decides against resorting to an amended Section 7(1) of the Official Secrets Act and to continue the Secret Order in force after May 31st, presumably some action will have to be taken to obtain a

further extension to the Emergency Powers Act. Even in this eventuality, however, there might be some merit in proceeding now with alternative legislation to take care of certain Orders in Council that now rely on the powers conferred by the Emergency Powers Act. I am thinking of such Orders as those relating to the operation by the United States of radio stations in Canada (Radio Act), to the use of special wheat storage spaces (Canada Grain Act), to the free admission of gifts from Armed Forces personnel abroad (Customs Tariff) etc. If this were done it might be possible to dispose, in a more normal way, of all the Orders under the Emergency Powers Act except the Secret Order, and possibly a few others such as the Order relating to Great Lakes Seamen's Security Regulations, the Transport Control Order and the Order concerning pilot licenses and certificates of proficiency for radio operators. Furthermore, even if the Emergency Powers Act is to be continued thus removing any necessity of amending the Official Secrets Act, there might be some merit in revising the treason provisions of the Criminal Code along the lines indicated in Appendix "E". You will note that an attempt has been made to restrict section 46 to treasonable acts only, while section 47 includes all the offences contained in the Treachery Act, 1940, plus the unauthorized communication of classified information to foreign agents for which the maximum penalty is death in time of war and life imprisonment during peace time.

On the other hand, if the Government agrees to proceed with the scheme outlined above or some variant thereof, the question of alternative legislative authority for the various Orders now under the Emergency Powers Act should be taken up as soon as possible with the law officers of the Crown since the suggestions set out in Appendix "A" have been made by the departmental administrators of the Orders but have not been discussed with the Department of Justice with a view to ascertaining the legal propriety of these suggestions.

I might add, parenthetically, that the Section 46(1)(a) of the Criminal Code Revision refers only to the communication of "military" or "scientific" information. The drafts set out in Appendices "C" and "E" are broader, in one sense, since they are not limited to "military" and "scientific" information and narrower, in another sense, since the offence is restricted to "classified" information.

I am none too happy about this hinging of the offence on declassification; and this for two reasons. In the first place some vital piece of information may, through negligence, remain technically unclassified. Under the proposed new definitions, what would be the legal position of the Crown in attempting to prosecute someone who had communicated that type of information to a foreign agent? Secondly, many documents are classified as confidential, secret or even top secret for reasons that have nothing whatever to do with the security of the State. This is one of the points referred to by Mr. Driedger in his memorandum to you of November 20. An attempt has been made to meet this second situation, however, by providing that the classified information must be such that it "may be used by that (foreign) state for a purpose prejudicial to the safety or defence of Canada".

A copy of the Official Secrets Act, in pamphlet form, is attached for your convenience.

P.P.

EMERGENCY POWERS ACT; ORDERS IN
COUNCIL IN FORCE ON 4 NOVEMBER, 1953

1. PRIORITIES CONTROL (regulations and appointments)
(P.C. 2399 of 16 May, 1951, and P.C. 3431
of 26 June, 1952)

There is apparently no longer any requirement for priority control in the civilian economy and, as control in the defence field can be maintained under the authority of the Defence Production Act, the Department of Defence Production has indicated that these Orders can now be REVOKED.

2. TRANSPORT CONTROL (regulations and appointments)
(P.C. 4535 and P.C. 4558 of 29 August, 1951)

The Department of Transport feels that these Orders should be continued in force as the powers granted thereunder are still being used, although to a limited degree. That Department suggests that this could be done by an amendment to the Department of Transport Act.

On the other hand, I understand that the Minister of Trade and Commerce is rather of the view that transport control might better be dropped if the Emergency Powers Act is allowed to lapse, and that, in the event such controls are again required in peacetime, the desired results could probably be achieved by obtaining the co-operation of the railways on a voluntary basis.

Depending on the decision reached, therefore, these Orders can either be REVOKED or continued by an amendment to the DEPARTMENT OF TRANSPORT ACT.

3. GREAT LAKES SEAMEN'S SECURITY REGULATIONS
(P.C. 2306 of 2 May, 1952)

As will be recalled, these regulations were established in the spring of 1952 at the insistence of U.S. authorities who were threatening to refuse access to U.S. locks and harbours in the Great Lakes for all Canadian ships carrying crews that had not been screened from a security point of view. Canadian authorities, on the other hand, were not convinced then and are not convinced now that these regulations are very effective since a number of vessels of foreign registry are allowed to ply the Great Lakes route without security clearance.

At a recent meeting, the Security Panel suggested that the U.S. authorities be approached again and informed that there was a possibility that the legislative authority for these regulations might lapse next spring and that, in the circumstances, and in view of the limited effectiveness of the regulations, they might well at this time be dropped. If, however, the U.S. authorities appear to insist on their continuance in some form, it was thought that this might be done without specific statutory authority simply by informing Canadian shipowners that access to U.S. ports and locks in the Great Lakes may be denied them unless their crews are cleared from a security point of view, and that the National Employment Service was prepared to maintain its present facilities for the security screening of seamen for the convenience of shipowners - the thought being that shipowners themselves (rather than the government) would make security clearance one of the conditions of employment on their ships. If such an arrangement proved to be unsatisfactory to U.S. authorities it would probably be possible to continue the present regulations by introducing an appropriate amendment to the Navigable Waters Protection Act.

Depending on the outcome of current discussions with U.S. authorities, these Orders in Council can therefore either be REVOKED or continued under an amendment to the NAVIGABLE WATERS PROTECTION ACT.

4. ORDER RELATING TO AIRCRAFT PILOT LICENCES AND RADIO OPERATORS CERTIFICATES OF PROFICIENCY.
(P.C. 4410 of 30 October, 1952)

This Order in Council, passed little more than a year ago to meet the case of a known Communist who already had a pilot's licence and was applying for a Certificate of Proficiency under the Radio Act, authorizes the Minister of Transport to refuse to grant pilot licences or Certificates of Proficiency for radio operators when such a course of action appears to him to be required in the interests of the security of Canada.

If the Emergency Powers Act is allowed to lapse and we revert, theoretically at least, to a normal peacetime period, there may be some doubt that an Order granting powers of this nature should be continued under permanent peacetime legislation. From the security point of view, it may be sufficient to have all applicants for pilot licences and for Certificates of Proficiency under the Radio Act screened by the R.C.M. Police and to place the names of those applicants suspected of being disloyal on a special list with a view to revoking the licences or certificates of such persons as soon as an emergency arises. If such a measure

is felt to be inadequate it may be possible, by interpreting rather loosely Section 4(1)(g) of the Radio Act and the Air Regulations made under the Aeronautics Act, for the Minister of Transport to refuse to grant licences and Certificates of Proficiency at least in those cases where the applicants are known Communists. The course of action which appears to me to be less desirable would be to introduce specific amendments to the Aeronautics Act and to the Radio Act for this sort of purpose.

These Orders can therefore either be REVOKED or continued by amendments to the AERONAUTICS ACT and to the RADIO ACT.

5. OPERATION BY U.S.A. OF RADIO STATIONS IN CANADA
(P.C. 3484 of 8 August, 1951)

Both National Defence and Transport feel that this Order should be continued in force. This can be done by an amendment to the RADIO ACT.

6. ORDER RELATING TO WHEAT STORAGE SPACES NOT ELIGIBLE FOR LICENCES UNDER THE CANADA GRAIN ACT.
(P.C. 5122 of 26 September, 1951)

The Department of Trade and Commerce feels that the authority contained in this Order should be continued. This can be done by an amendment to the CANADA GRAIN ACT.

7. FREE ADMISSION OF PERSONAL GIFTS FROM ARMED FORCES ABROAD
(P.C. 6598 of 6 December, 1951)

The Department of National Defence would like the substance of this Order to be continued in force. Officials of the Departments of Finance and National Revenue feel that this can best be done by an appropriate amendment to the CUSTOMS TARIFF.

8. CONTROL OF TRADE BY SEA WITH CONTINENTAL CHINA AND NORTH KOREA.
(P.C. 1953-604 of 17 April, 1953)

External Affairs, Trade and Commerce and Transport all feel that this Order should be continued at least for the time being. This can be taken care of under the proposed revision of the EXPORT AND IMPORT PERMITS CONTROL ACT.

9. SECRET ORDER
(P.C. 3486 of 4 July 1951)

See covering memorandum.

The following is the legislative history of paragraph (e) of clause 46(1) as it now appears in Bill 7:

(1) As recommended by the Criminal Code Revision Commission and as introduced in the Senate (Bill 88), the provision was as follows:

"Every one commits treason who, in Canada,

- (e) conspires with an agent of a state other than Canada to communicate information or to do an act that is likely to be prejudicial to the safety or interests of Canada;"

The punishment authorized was death or imprisonment for life.

The provision was discussed in the Senate Banking and Commerce Committee, but the Committee did not report, so no recommendation was made in favour of or against the provision.

(2) When the Bill was introduced in the Senate for the second time (Bill 9), the provision was in the same form as above.

The Banking and Commerce Committee, to which the Bill was referred, thought

- (a) that the paragraph was "too broad", and
- (b) that the conduct referred to in the paragraph was not such as should be defined as "treason".

Accordingly, the Senate removed paragraph (e) from clause 46 and inserted it in clause 50 as paragraph (e), as follows:

"Every one commits an offence who

- (e) conspires with an agent of a state other than Canada to communicate information or to do an act that is likely to be prejudicial to the safety of Canada;"

The punishment authorized is 14 years' imprisonment.

(3) The provision was introduced in the Commons in the form in which it had left the Senate.

The members of the Special Committee who were present when the clause was amended were as follows:

Messrs. Brown (Essex West), Browne (St. John's West), Garson, MacInnis, MacNaught, Macnaughton, Montgomery, Noseworthy, Robichaud and Shaw.

The Special Committee amended the paragraph so that it took the form that it now takes in Bill 7, i.e.,

"Every one commits treason who, in Canada,

- (a) without lawful authority, communicates or makes available to an agent of a state other than Canada, military or scientific information or any sketch, plan, model, article, note or document of a military or scientific character that he knows or ought to know may be used by that state for a purpose prejudicial to the safety or defence of Canada;"

The relevant amendments were moved by Messrs. MacInnis, Browne (St. John's West) and Robichaud.

The effect of the amendments was to restore the provision in question to the definition of treason, but to narrow it substantially from what it had been in the Senate.

Mr. MacInnis moved the amendment restoring paragraph (a) to clause 46; Mr. Browne moved the amendment relating to punishment; and Mr. Robichaud moved the consequential amendment that was necessary to clause 50.

A.J.M.

Department of Justice,
25 November, 1953.

TREASON AND TREACHERY

Suggested amendments to the Criminal Code,
the Official Secrets Act and the Treachery
Act

I. CRIMINAL CODE - suggested treason provisions

(This clause would replace Sections 46, 47 and 48 as they now appear in the November 16, 1953, print of the Criminal Code Revision)

"(1) Every one commits treason who, in Canada,

- (a) kills or attempts to kill Her Majesty, or does her any bodily harm tending to death or destruction, maims or wounds her, or imprisons or restrains her;
- (b) levies war against Canada or does any act preparatory thereto;
- (c) assists any armed forces against whom Canadian Forces are engaged in hostilities;
- (d) uses force or violence for the purpose of overthrowing the government of Canada or a province;
- (e) conspires with any person to do anything mentioned in paragraphs (a) to (d); or
- (f) forms an intention to do anything mentioned in paragraphs (a) to (d) and manifests that intention by an overt act.

(2) Every one who commits treason is guilty of an indictable offence and shall be sentenced to death.

(3) Notwithstanding subsection (1), a Canadian citizen or a person who owes allegiance to Her Majesty in right of Canada commits treason if, while in or out of Canada, he does anything mentioned in subsection (1).

(4) Where it is treason to conspire with any person, the act of conspiring is an overt act of treason.

(5) No person shall be convicted of treason upon the evidence of only one witness, unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

(6) No proceedings for an offence of treason as defined by paragraph (d) of subsection (1) shall be commenced more than three years after the time when the offence is committed.

(7) No proceedings shall be commenced under this section in respect of an overt act of treason expressed or declared by open and considered speech unless

(a) an information setting out the overt act and the words by which it was expressed or declared is laid under oath before a justice within six days after the time when the words are alleged to have been spoken, and

(b) a warrant for the arrest of the accused is issued within ten days after the time when the information is laid."

II. OFFICIAL SECRETS ACT - suggested clause re communication of classified information to foreign countries in peacetime
(This will remove the necessity of leaving Section 46(1)(e) in the Criminal Code Revision)

"Every one who, without lawful authority, communicates or makes available to any person, for the use of a State other than Canada, information classified as top secret, secret, confidential or restricted, if he knows or ought to know that the information may be used by that State for a purpose prejudicial to the safety or defence of Canada, is guilty of an offence and liable to be sentenced to imprisonment for life."

III. TREACHERY ACT - suggested treachery clause
(This clause would include, in addition to the substantive provisions now covered by the Treachery

Act, Chapter 43 of the Statutes of 1940, a paragraph covering the same offence as that to be included in the Official Secrets Act under heading II above but committed while Canada is at war. The Treachery Act would come into operation only during those periods when the War Measures Act is operative)

"1. (1) Every one commits treachery who,

(a) with intent to assist the enemy, does or attempts to do or conspires with another person to do anything

(i) that is designed or is likely to assist the naval, military or air operations of the enemy;

(ii) that is designed or is likely to impede the operations of Her Majesty's forces;

(iii) that is designed or is likely to prejudice the safety or defence of Canada;

(iv) that is designed or is likely to prejudice the efficient prosecution of the war by Canada; or

(b) without lawful authority communicates or makes available to any person for the use of a State other than Canada information classified as top secret, secret, confidential or restricted, if he knows or ought to know that the information may be used by that State for a purpose prejudicial to the safety or defence of Canada.

(2) Every one who commits treachery, as defined in paragraph (a) of subsection (1) shall be sentenced to death.

(3) Every one who commits treachery, as defined in paragraph (b) of subsection (1) is liable to be sentenced to death or to imprisonment for life."

OFFICIAL SECRETS ACTDraft amendment to Section 7

"7(1) Where it appears to the Minister of Justice that such a course is necessary or expedient in the interests of the safety of the State, he may, by warrant under his hand, require any person who owns or controls any electromagnetic communications equipment used for the sending or receipt of communications to or from any place in or out of Canada, to produce to him, or to any person named in the warrant, the originals or transcripts, or the originals and transcripts, either of all communications, or of communications of any specified class or description, or of communications sent from or addressed to any specified person or place, sent or received by means of any such electromagnetic communications equipment and all documents relating to any such communications.

(2) Every person who, on being required to produce any original or transcript or document under Sub-section (1), refuses or neglects to do so is guilty of an offence under this Act, and is for each offence, liable on summary conviction to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding \$200.00, or to both such imprisonment and fine."

CRIMINAL CODETREASON, TREACHERY AND OTHER OFFENCES AGAINST THE QUEEN'S
AUTHORITY AND PERSON.

46. (1) Every one commits treason who, in Canada,
- (a) kills or attempts to kill Her Majesty, or does her any bodily harm tending to death or destruction, maims or wounds her, or imprisons or restrains her;
 - (b) levies war against Canada or does any act preparatory thereto;
 - (c) assists any armed forces against whom Canadian Forces are engaged in hostilities;
 - (d) uses force or violence for the purpose of overthrowing the government of Canada or a province;
 - (e) conspires with any person to do anything mentioned in paragraphs (a) to (d); or
 - (f) forms an intention to do anything mentioned in paragraphs (a) to (d) and manifests that intention by an overt act.
- (2) Every one who commits treason is guilty of an indictable offence and shall be sentenced to death.
- (3) Notwithstanding subsection (1), a Canadian citizen or a person who owes allegiance to Her Majesty in right of Canada commits treason if, while in or out of Canada, he does anything mentioned in subsection (1).
- (4) Where it is treason to conspire with any person, the act of conspiring is an overt act of treason.
- (5) No person shall be convicted of treason upon the evidence of only one witness, unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.
- (6) No proceedings for an offence of treason as defined by paragraph (d) of subsection (1) shall be commenced more than three years after the time when the offence is committed.

(7) No proceedings shall be commenced under this section in respect of an overt act of treason expressed or declared by open and considered speech unless

- (a) an information setting out the overt act and the words by which it was expressed or declared is laid under oath before a justice within six days after the time when the words are alleged to have been spoken, and
- (b) a warrant for the arrest of the accused is issued within ten days after the time when the information is laid.

47.(1) Every one commits treachery who, during any war in which Canada is engaged, with intent to assist the enemy, does or attempts to do or conspires with another person to do anything

- (a) that is designed or is likely to assist the naval, military or air operations of the enemy;
- (b) that is designed or is likely to impede the operations of Her Majesty's Forces;
- (c) that is designed or is likely to prejudice the safety or defence of Canada; or
- (d) that is designed or is likely to prejudice the efficient prosecution of the war by Canada.

(2) Every one commits treachery who without lawful authority communicates or makes available to any person, for the use of a state other than Canada, information classified as top secret, secret, confidential or restricted, if he knows or ought to know that the information may be used by that state for a purpose prejudicial to the safety or defence of Canada.

48.(1) Every one who commits treachery as defined in subsection (1) of section 47 shall be sentenced to death.

(2) Every one who commits treachery as defined in subsection (2) of section 47 is liable

- (a) to be sentenced to death or to imprisonment for life, if the offence is committed while a state

of war exists between Canada and another country; or

- (b) to be sentenced to imprisonment for life if the offence is committed while no state of war exists between Canada and another country."

MADE IN CANADA

MADE IN CANADA

Dec 1, 1953

P. 50-2 (b)

SECRET

ORDERS IN COUNCIL IN FORCE UNDER THE EMERGENCY POWERS ACT

1. Priorities Control Regulations, and appointments (P.C. 2399, 16-5-51)
(P.C. 343, 28-6-51)

Defence Production - This order may be revoked. The authority for priority control in the civilian economy field provided by these regulations is no longer required. Priority control in the defence production field can be maintained under the authority of the Defence Production Act.

2. Secret Order (P.C. 3486, 4-7-51)

Justice - The Deputy Minister of Justice has this under consideration.

3. Operation by the Government of the U.S.A. of radio (P.C. 3484, 8-8-51) stations in Canada

Transport - This order should not be revoked at this time or in the near future. If it is not to be continued under the Emergency Powers Act, an amendment to the Radio Act would be required.

National Defence - The substance of this order should be continued in force. The Department of Transport has been asked to take care of the necessary legislative details.

4. Transport Control Regulations, and appointments (P.C. 4535, 29-8-51)
(P.C. 4558, 29-8-51)

Transport - This order should not be revoked at this time or in the near future. If it is not to be continued under the Emergency Powers Act, new legislation would be required.

Trade and Commerce - There is no need to continue the authority which the Department of Trade and Commerce has under these regulations and they could be dispensed with. *Dept of Transport Act*
Howe

5. Use of Wheat Storage Space not eligible for licence (P.C. 5122, 26-9-51) under the Canada Grain Act

Trade and Commerce - The authority contained in this order should be retained in some form, if not under the Emergency Powers Act then either by amendment to the Canada Grain Act or by special legislation.

Transport - The Department of Transport is not concerned with this order.

1. Admission free of duty of personal gifts from (P.C. 6598, 6-12-51) members of the Canadian forces abroad

✓ National Defence - The substance of this order should be continued in force. The Department of National Revenue has been asked to take care of the necessary legislative details.

Finance - This order need not be maintained under the Emergency Powers Act. It could be taken care of by an amendment to the Customs Tariff at the time of the next Budget which presumably will be before May 31, 1954.

National Revenue - If this were not continued under the Emergency Powers Act, it could best be taken care of by the introduction of a new Tariff item. It should not be done under section 22 of the Financial Administration Act because of the indefinite nature of the period of remission.

3 Great Lakes Seamen's Security Regulations (P.C. 2306, 2-5-52)

No letters were sent out in connection with this order and it is under study by the Security Panel.

4 Order affecting pilot licences under the (P.C. 4410, 30-10-52) Aeronautics Act and Certificates of proficiency for radio operators issued under The Radio Act, 1938

Aeronautics Act/Reguls 51-77 IV - para 4.8
Radio Act - Sect 4(1)(g)

4 ✓ Transport - This order should not be revoked at this time or in the near future. If it is not to be continued under the Emergency Powers Act, amendments to the Radio Act and to the Aeronautics Act would be required.

4 ✓ Control of Trade by Sea for Mainland China (P.C. 1953-604, 17-4-53) and North Korea Order, 1953

21 ✓ Transport - This order should not be revoked at this time or in the near future. If it is not to be continued under the Emergency Powers Act, an amendment to the Canada Shipping Act, or possibly new legislation, would be required.

...

Trade and Commerce - The authority contained in this order should be retained and this could be done as a special clause in an amendment to the Export and Import Permits Control Act.

External Affairs - The Under Secretary of State for External Affairs and the Deputy Ministers of Transport and Trade and Commerce agree that these regulations should not be repealed at the present time. They also agree that, if the regulations are not continued under the Emergency Powers Act, they should be made under the authority of the revised Export and Import Permits Control Act, the Bill in connection with the new Act to be drafted in terms broad enough to encompass such regulations.

December 1, 1953.

Ottawa, October 19, 1953.

MEMORANDUM FOR MR. ROBERTSON

I attach a copy of Mr. Driedger's note which I have had typed. You may like to have it by you. I have also had a talk with Mr. Drake who told me that he considers the suggested use of the phrase "electromagnetic communication system" is admirable. He was able to show me a joint U.S. Canada agreement on an allied subject in which an almost identical phrase is used.

2. Mr. Drake will consult with one of his technicians and in a day or so give me some additional material on up to date communications methods which can be used to fill out the draft note. With one or two minor changes and the addition of Mr. Drake's material I suggest the draft could go forward to the Cabinet Committee in something very close to its present form.

P. M. D.

D R A F T

The purpose of this amendment is to make the section applicable to the sending or receipt of telegrams within Canada, as well as to or from any place out of Canada.

At the same time a few minor changes are being made in order to avoid possible misconstruction of the section by reason of the scientific advances made since the section was first enacted.

The section was originally enacted in England in 1920 and extended to "telegraphic" cables or wires and "wireless telegraphy." These expressions were undoubtedly intended to cover the then known and practical systems of electromagnetic communications. Etymologically they are adequate to include all forms of electromagnetic communications in use to-day, but terms and expressions used to describe more modern forms of electromagnetic communications have tended to narrow the original meaning of "telegraph." The prefix "tele" is the Greek "far off" and "graph", while usually related to writing, includes anything that "writes, portrays or records" (see Oxf. Dict.). The meaning of "telegraph" therefore (as a verb) is to write, portray or record at a distance, and, under the section as originally drafted, it is clear that cable, wire and wireless is included, and "telegram" means merely a "message sent by telegraph."

However, according to modern or popular usage, "telegraph" is confined to the transmission of messages in a dot-and-dash code by a circuit breaking mechanism - at least the danger is that the word in the Act, particularly if re-enacted now, could be so

- 2 -

construed. The result would be that teletype messages, for example, or pictures sent by wire, would not be included. Similarly "wireless" telegrams might be held not to include radio pictures or radiograms transmitted otherwise than by the morse or similar code.

It is therefore considered desirable to substitute the new term "electromagnetic communication" and to rely on the scientific description rather than popular concept. The amendment actually neither enlarges nor narrows the present meaning of the section, but it will obviate possible misconstruction.

"Where it appears to the Minister of Justice that such a course is expedient in the public interest, he may, by warrant under his hand, require any person who owns or controls any electromagnetic communication system or device used for the sending or receipt of communications to produce to him, or to any person named in the warrant, the originals or transcripts or both the originals and transcripts, of all communications, of communications of any specified class or description, or of communications from or addressed to any specified person or place, sent or received by means of any such electromagnetic communication system or device, and all documents relating to any such communication.

The purpose of this amendment is to make the section applicable to the sending or receipt of telegrams, within Canada, as well as to or from any place out of Canada.

At the same time a few minor changes are being made in order to recognize the ~~scientific advances~~ avoid possible misconstruction of the section by reason of the scientific advances made since the section was first enacted.

The section was originally enacted in England in 1920 and extended to "telegraphic" cables or wires and "wireless telegraphy". These expressions were undoubtedly intended to cover the then known and practical systems of electromagnetic communications. Etymologically they are adequate to include all forms of electromagnetic communication in use to-day, but ~~subsequent~~ terms and expressions used to describe more modern forms of electromagnetic communication have tended to narrow the original meaning of "telegraph". The ~~prefix~~ ^{prefix} "tele" ~~of Greek~~ is the Greek "far off" and "graph", while usually related to writing, includes

And "telegram" means merely a "message sent by telegraph."

anything that "writes, portrays or records" (see Oxf. Dict.) The meaning of "telegraph" therefore (as a verb) is to write, portray or record at a distance, and, under the section as originally drafted, it is clear that ~~both~~ cable, wire and wireless is included.

However, ^{according to} ~~the~~ ~~no~~ modern ~~usage~~ or popular usage, "telegraph" is confined to the transmission of messages in ~~by~~ a dot-and-dash code by a circuit breaking mechanism - at least the danger is that the word in the Act, particularly if re-enacted now, could be so construed. The result would be that teletype messages, for example, or pictures sent by wire, would not be included. Similarly "wireless" telegrams might be held not to include radio pictures or radiograms transmitted otherwise than by the Morse ~~code~~ or similar code.

It is therefore considered desirable to substitute ~~as~~ the new term "electromagnetic communication" and to rely on the scientific description rather than popular concept.

The amendment actually neither enlarges nor narrows the present meaning of the section, but it will obviate possible misconstruction.

"Where it appears to the Minister of Justice that such a course is expedient ^{for the security of Canada?} in the public interest, he may, by warrant under his hand, require any person who owns or controls any electromagnetic communication system or device used for the sending or receipt of communications to produce to him, or to any person named in the warrant, the originals or transcripts or both the originals and transcripts, of all communications, of communications of any specified class or description, or of communications ~~sent~~ from or addressed to any specified person or place, sent ~~to~~ or received by means of any such electromagnetic communication system or device, and all ~~other documents~~ ^{documents} relating to any such communication.

CROSS REFERENCE SHEET

CONFIDENTIAL

Name or Subject	File No.
PRIVY COUNCIL - <u>Law and Practice - Emergency Powers Legislation - Official</u>	<u>P-50-2(b)</u> Offl.

Regarding	Date
Memo confirming telephone conversation with Mr. Towe Oct. 16th re proposed mtg. Oct. 20th - listing items to be discussed (1) effect of possible revocation of Emergency Powers Act on Cdn regulations for voyage licensing (2) proposals to widen authority of Min. of Trade and Commerce under Export/Import Control Act (3) proposals to streamline present systems of Interdept. consultation re exports of military equipment -	October 19th, 1953.

SEE

Name or Subject	File No.
Wm. F. Bull (atten. D.Harvey) from J.H.Warren -	<u>M-15</u> Offl.

P-50-2(b)
off

Ke P-

Robertson

TOP SECRET

August 28, 1953.

MEMORANDUM TO MR. ROBERTSON

The present authority for the clandestine tapping of private telephones within Canada by the R.C.M.P. lies in an order-in-council made under the Emergency Powers Act. It seems possible that, with the truce in Korea, raison d'etre of the Emergency Powers Act will cease and that the R.C.M. Police may therefore shortly lose their authority to tap telephones.

2. I have discussed this matter with the officer in command of Special Branch/R.C.M.P., and it is clear that the tapping of telephones provides an incomparable source of information vital to the security of Canada. The operations of spies can only be effectively combatted by methods equally distasteful, and this is one of them. It therefore seems important that this authority be continued by other legislation, and the most logical method of providing it would seem to be by amendment to paragraph 7(1) of the Official Secrets Act.

3. This paragraph at present empowers the Minister of Justice to have produced to him any telegrams to or from any place out of Canada. This clearly does not cover communications by telephone either in or out of Canada. However, it seems possible that by some rewording and by the use of the word "telecommunications" instead of "telegrams" it may be possible to provide the authority without drawing direct attention to our purpose. I have not been able to find an official definition of "telecommunications" but presumably it means from the Greek "communications at a distance" and could therefore be interpreted to cover telephone communications. In present usage it has the connotation of communication by machine and therefore could not be misinterpreted to include communications by mail. This could no doubt be made clear in a new definition. Any public explanation of the amendment might suggest that it is being made to cover all modern developments in the communications field such as the teletype. A

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suggested amendment of paragraph 7(1) is at Annex "A".

4. It would seem advisable to cover the true purpose of this amendment by the addition of one or two further amendments, without opening the whole Act to debate. It occurs to me that the main weakness of the present act is that it does not make entirely clear what an official secret is. This is surely the first thing it should do. To my mind this is what the act should protect:

- (1) Classified information in whatever form it may be;
- (1i) Objects, a view of which by a spy would be pre-judicial to the safety and interests of the state.

I would therefore suggest that a definition of "classified information" should be inserted under Interpretation and that the frequent references in the act to sketches, plans, models, documents ect. be replaced by the phrase "classified information". An attempted definition of "classified information" is at Annex "B". The insertion of "classified information" in the text of the act would open paragraphs 3(1) c, 3(2), 4(1)(a), (c) and (d), and 4(3). You may feel that this is too much, but of course the point at issue is the same in each case.

5. With regard to (1i) above I feel that the only way in which these objects can be protected is by ensuring that the place in which they are situated is a "prohibited place". In order to strengthen this part of the act I suggest enlarging the definition of a "prohibited place" and in particular adding the phrase "and places containing any classified information". This addition would give protection which I do not think exists at present to a very large number of government establishments. This would call for an amendment under Interpretation and presumably would not open any of the act itself. An enlarged definition of "prohibited place" is at Annex "C".

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6. In addition to the above recommendations, a number of comments occur to me on your memorandum of June 29.

Your Section 2 - Interpretation

It seems to me that subsection (f) containing the phrase "any articles deemed capable of being converted thereinto, or made useful in the production thereof" is already a very broad definition of "munitions of war". What kind of addition do you have in mind?

Sub-section (i) is now redrafted and, I think, widened and strengthened.

Your Section 3(1) on page 2

I think the case of the person who receives information is covered in Section 4(3) of the act.

Your Section 4 on page 2

The suggestion you made for the improvement of 4(1)(c) is surely met in 4(1)(d)? Failing to comply with directions for safekeeping and custody is in fact failing "to take reasonable care", isn't it?

I agree with your comment on section 4(2). If we amend the act and use the phrase "classified information", section 4(2) can be dropped altogether, I think, because "classified information" blankets everything including munitions of war. In this case the meaningless "in any other manner" phrase will go with it.

The reason for the inclusion of Sections 4(4)(a) and (b) is obscure because it appears redundant after 4(1)(a)-(d). I think that possibly the reason may lie in the use of the phrase "official document". A document

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can be "official" without being classified - a press release, for instance, prior to its release date. Possibly these sections are directed to the protection of such information. I doubt if on the whole this is worth amending unless we tackle the whole act.

Your Section 5 on page 3.

I think that tampering, forging and altering is covered in 5(1)(c) (not (d)) and that this covers any such act regardless of the purpose for which it is done.

Your Section 6 on page 3

The Corps of Commissionaires are sworn in as special constables when there is no other police protection. Other guards could be similarly sworn if necessary. I doubt if this is worth amending.

Your Section 7 on page 3

I have already dealt with this in detail above.

P.M.D.

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ANNEX "A"

Amended version of Paragraph 7(1) of
the Official Secrets Act (Amendments
are underlined)

Where it appears to the Minister of Justice that such a course is expedient in the public interest, he may, by warrant under his hand, require any person who owns or controls any telecommunications equipment, used for the sending or receipt of communications to or from any place in or out of Canada, to produce to him, or to any person named in the warrant, the originals ~~and~~ ^{and} transcripts, ^{of} either of all communications, or of communications of any specified class or description, or of communications made from or sent to any specified person or place, made to or received from any place in or out of Canada by means of any such telecommunications equipment and all other papers relating to any such communication as aforesaid.

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ANNEX "D"

Definition of "Classified Information"

The expression "classified information" means any document, note, plan, sketch, model, design, pattern, specimen or article, or any part of any document, note, plan, sketch, model, design, pattern, specimen or article, which has been classified as restricted, confidential, secret or top secret by an authorized person holding office under Her Majesty, or any copy in whole or in part of any document, note, plan, sketch, model, design, pattern, specimen or article which has been so classified.

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ANNEX "C"

Amended definition of "Prohibited Places"

The expression "prohibited place" means any place concerned (~~directly or indirectly~~) with the defence of Canada, belonging to or occupied by or used on behalf of Her Majesty, information with respect to which or damage to which would be useful to a foreign power, including but not limited to arsenals, naval, military or airforce establishments or stations, factories, dockyards, mines, minefields, camps, ships, aircraft, telecommunications or signal stations or offices, research establishments, places used for the purpose of building, repairing, making or storing any munitions of war, or for the purpose of getting any metals, oil or minerals of use in time of war, and places containing any classified information.

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D R A F T

The purpose of this amendment is to make the section applicable to the sending or receipt of telegrams within Canada, as well as to or from any place out of Canada.

At the same time a few minor changes are being made in order to avoid possible misconstruction of the section by reason of the scientific advances made since the section was first enacted.

The section was originally enacted in England in 1920 and extended to "telegraphic" cables or wires and "wireless telegraphy." These expressions were undoubtedly intended to cover the then known and practical systems of electromagnetic communications. Etymologically they are adequate to include ^{all} forms of electromagnetic communications in use to-day, but terms and expressions used to describe more modern forms of electromagnetic communications have tended to narrow the original meaning of "telegraph." The prefix "tele" is the Greek "far off" and "graph", while usually related to writing, includes anything that "writes, portrays or records" (see Oxf. Dict.). The meaning of "telegraph" therefore (as a verb) is to write, portray or record at a distance, and, under the section as originally drafted, it is clear that cable, wire and wireless is included, and "telegram" means merely a "message sent by telegraph."

Handwritten:
However, according to modern or popular usage, "telegraph" is confined to the transmission of messages in a dot-and-dash code by a circuit breaking mechanism - at least the danger is that the word in the Act, particularly if re-enacted now, could be so

- 2 -

construed. The result would be that teletype messages, for example, or pictures sent by wire, would not be included. Similarly "wireless" telegrams might be held not to include radio pictures or (radiograms) transmitted otherwise than by the morse or similar code.

It is therefore considered desirable to substitute the new term "electromagnetic communication" and to rely on the scientific description rather than popular concept. The amendment actually neither enlarges nor narrows the present meaning of the section, but it will obviate possible misconstruction.

"Where it appears to the Minister of Justice that such a course is expedient in the public interest, he may, by warrant under his hand, require any person who owns or controls any electromagnetic communication system or device used for the sending or receipt of communications to produce to him, or to any person named in the warrant, the originals or transcripts or both the originals and transcripts, of all communications, of communications of any specified class or description, or of communications from or addressed to any specified person or place, sent or received by means of any such electromagnetic communication system or device, and all documents relating to any such communication.

CROSS REFERENCE SHEET

CONFIDENTIAL

Name or Subject
PRIVY COUNCIL - Law and Practice - Emergency
Powers Legislation - Official

File No.
P-50-2(b)
Offl.

Regarding
Memo re Canada-U.S. economic questions -
reporting re attendance at mtg. Apr. 30th to
discuss the brief on economic questions for
Prime Minister's mtg. with President Eisenhower -
outlining situation on the economic front in
Washington & giving two reasons why the President
is not going to provide much leadership in economic
matters, as reported by Lou Rasminsky - suggesting the
Cdn Govt. might wish to take retaliatory action in case
some of the offensive provisions being considered in
Washington are put into effect; that Parliament will not
be available for action & that there is no legislative
provision under which it can move by Order in Council -
commenting re the imposition of import controls under
the Export & Import Permits Act & stating that this is
not the kind of thing for which the Emergency Powers
Act was intended - submitting suggestions -

Date
May 1, 1953.

SEE

Name or Subject
R.G. Robertson to J.W. Pickersgill -

File No.
U-12-3
Offl.

Ottawa, April 15th, 1953.

The Honourable W. McL. Robertson,
The Senate,
Ottawa.

Dear Senator Robertson:

In compliance with your request I am forwarding to you herewith a schedule of the Orders in Council passed under the Emergency Powers Act, together with a copy of each of the said Orders with the exception of that which has come to be known as the "secret" order, summarized on the schedule as "Order with respect to particular persons or classes of persons".

You will note that revoking Orders are also included.

Yours sincerely,

(J.W. Pickersgill),
Clerk of the Privy Council
and Secretary to the Cabinet.

EMERGENCY POWERS ACT

Orders in Council

<u>P.C. No.</u>	<u>Date</u>	<u>Subject</u>	<u>Tabled</u>	<u>Tabled in S.O.R.</u>	<u>Published in S.O.R. dated</u>
1439	22-3-51	Great Lakes Seamen's Security Regulations	2/4/51	13/4/51	11/4/51
1608	4-4-51	Five cent coin	6/4/51	1/5/51	25/4/51
2101	26-4-51	Great Lakes Seamen's Security Regulations	26/4/51	10/5/51	9/5/51
2399	16-5-51	Regulations respect- ing Priorities	17/5/51	15/6/51	13/6/51
2621	24-5-51	App't Director and Deputy Director of Priorities			
2847	4-6-51	Great Lakes Seamen's Security Regulations	5/6/51	29/6/51	27/6/51
2932	7-6-51	Defence Services Pension Act to apply to members of the Regular Forces granted temporary Commissions	8/6/51	29/6/51	27/6/51
3417	4-7-51	Disposition of offences committed prior to coming into force of Code of Service Discipline	9/10/51	-	-
3486	4-7-51	Order with respect to particular persons or classes of persons		Exempted from publication	
3855	24-7-51	Great Lakes Seamen's Security Regulations	-	9/10/51	8/8/51
3415	31-7-51	Agricultural Products Board Regulations	-	9/10/51	22/8/51
3484	8-8-51	Operation of U.S.A. radio stations in Canada	9/10/51	-	-
4535	29-8-51	Transport Control Regulations	-	9/10/51	12/9/51
4558	29-8-51	Appointment of Transport Controller	9/10/51	-	-
5122	26-9-51	Postponing weigh-over of grain required by Canada Grain Act	9/10/51	12/10/51	10/10/51
5645	22-10-51	App't J.J.D. Brunke Director of Priorities	23/10/51		

EMERGENCY POWERS ACT

Orders in Council

<u>P.C. No.</u>	<u>Date</u>	<u>Subject</u>	<u>Tabled</u>	<u>Tabled in S.O.R.</u>	<u>Published in S.O.R. dated</u>
6598	6-12-51	Personal gifts from members of Canadian Forces abroad to be admitted free of duty	7/12/51	28/12/51	26/12/51
389	23-1-52	The Agricultural Products Board Act - revoking the Agricultural Products Board Regulations established by P.C. 3415, 31-7-51		29-2-52	13/2/52
1234	3-3-52	Export and Import Permits Act and Emergency Powers Act - adding to list of goods requiring an import permit - livestock, meat and meat products	3/3/52	14/3/52	Extra: 3/3/52 Regular: 12/3/52
2306	2-5-52	Great Lakes Seamen's Security Regulations	5/5/52	15/5/52	14/5/52
3197	30-5-52	Sections one to three of The Emergency Powers Act continued in force up to and including May 30, 1953	30/5/52	13/6/52	11/6/52
4116	24-9-52	Revoking that portion of P.C. 5122, 26-9-51 which authorized the deferment of the weigh-over of grain in terminal elevators provided for by sections 138 and 138a of The Canada Grain Act		20/11/52	8/10/52
4410	30-10-52	Order affecting pilot licences under the Aeronautics Act and Certificates of proficiency for radio operators issued under The Radio Act, 1938		20/11/52	12/11/52
4525	19-11-52	Revoking P.C. 1608, 4-4-51 which authorized the minting of a 5 cent coin of steel	24/11/52		

CROSS REFERENCE SHEET

TOP SECRET

Name or Subject
PRIVY COUNCIL - Law and Practice -
Emergency Powers Legislation - Official

File No.
P-50-2(b)
Offl.

Regarding

Date

Cabinet Conclusions - Meeting Mar. 25,
1953 - including:

March 25, 1953

c R.
Emergency Powers Act; possible limitation

SEE

Name or Subject

File No.

Miss Walls (Room 227)

CROSS REFERENCE SHEET

Name or Subject

PRIVY COUNCIL - Law and Practice - Emergency
Powers Legislation - Official

File No.

P-50-2(b)
Offl.

Regarding

Date

Memo re import control on meat & animals -
advising that present provisions by which
imports to Canada of animals & meat is
under import control should be given con-
sideration by March 1, when U.S. border
is open to Can. animals & animal products -
referring to Order in Council P.C. 1234 of
March 3/52 & commenting on powers given by
Export & Import Permits Act & the Emergency
Powers Act - outlining present position re
price support & advising that M. Sharp will
have his dept. look into the matter at once -

January 9, 1953

SEE

Name or Subject

R.G. Robertson to J.W. Pickersgill

File No.

A-50-3
Offl.