

*Supply—Justice*

the system and it is to these that the government has been directing its attention recently. It is also to these that members have been addressing questions to the government in the House of Commons.

It has been suggested that our security system might be better served by the establishment of a quasi-judicial tribunal to which persons who had been denied employment in government or dismissed from government employment for security reasons might have a right of appeal against that decision. This proposal has been given intensive study by various Canadian administrations over a number of years and the conclusion invariably arrived at has been essentially this: quasi-judicial procedures cannot fairly and effectively be applied to these matters. By the very nature of the security risk and the measures which have to be taken to try to meet that risk, it is often impossible to bring forward for open scrutiny all of the relevant information in any particular case. To some degree the consideration of employee security in the consideration of this problem in judicial or in legal terms beclouds rather than clarifies the issue.

No lawyer thinks of judicial procedures and the canons of evidence when he decides to trust a secretary with private or secret papers. Confidence is not the kind of thing which is always capable of determination by concrete or specific evidence. It may depend on many things—the record of a man, his character and his habits, the nature of his activities, the stability of his personality, the company he keeps, and the pressures to which he may be susceptible. Judgments of character and confidence are important in private affairs; they become far more important when the security of a nation is at stake. But they are not, however, different in their essential nature. Every minister and agency of government is accountable for the security of their operations. Consequently, each must be responsible for the reliability of the people to whom it gives access to the things on which national security may depend.

The granting or the denial of a security clearance is an administrative matter, one of managerial responsibility. In making a decision that an applicant or employee may not safely be given access to secret and confidential information, the head of a department or of an agency is not denying an individual a right. No person, of course, has a right to see official secrets. The department head is merely exercising the judgment he is expected to apply on the basis of all the information available to him in the way that any sensible person would exercise such judgment in hiring a secretary, a cashier, a lawyer or a doctor, ensuring that such per-

son could be trusted with his property, his private business or his physical health. The government also has an obligation to provide itself with every reasonable assurance that those of its employees who require access to the government's, the nation's secrets are loyal and trustworthy and not vulnerable to persuasion, coercion or blackmail.

While it is the responsibility of departments and ministers to take the ultimate decision on the security of their personnel, this is of course done within directions as to policy laid down by the government. The question has arisen whether it might be desirable to have some procedure for a hearing or a rehearing of employees, short of a judicial or quasi-judicial procedure, which would ensure that their side of a case was fairly heard. The United Kingdom and the United States do have such procedures, while they leave the final decision to the agencies involved. So far in Canada we have not had these procedures.

After careful consideration the government has come to the conclusion that the essential advantages of these procedures can be achieved within our system by requiring all departments and agencies of government to do two things which they have not previously been required to do. The first of the new requirements is to inform the person involved when his security or reliability is in doubt and may have to involve his dismissal. Employing departments and agencies will in future be required to tell an employee everything that is possible of the reasons for the doubt, if there is a doubt, and to give him an opportunity to resolve that doubt. This practice has been followed in several departments and agencies of the government for many years, and often with very good results, but it has not been mandatory. There will, of course, Mr. Chairman, be cases, which I think will be few in number, in which the sources of the information giving rise to doubt are such that little or nothing can be told the employee of the reasons for doubt without jeopardizing the sources from which the information comes. In these cases, which will, I repeat, be few in number, there will be an added responsibility to exercise the greatest care to ensure that the employee does not suffer unfairly.

The second new requirement is to ensure that a second look is always taken by a separate body before dismissal is finally decided upon. Once the individual is told of security doubts he will have the opportunity to give his side of the case. The employing agency will consider it, consult the staff of the government security panel, and arrive at a conclusion. It may be to accept the person as reliable, in which case no problem arises.