

*Official Secrets Act*

we in the House get used to losing skirmishes from time to time. Because of Your Honour's remarks yesterday, perhaps the net result will be the provision of an opportunity for a committee to have a look at the general issue involved. Because of the fact that we have been provided with an opportunity to debate this matter, I think a major battle is being won by the House and by the country. There is still a war to be won, but this first battle will assist in the winning of that war. My loss of a skirmish is part of the proceedings which make this House go around.

Before I knew that we would proceed with this debate today I took the liberty of circulating to all members of the House, except cabinet members and, I believe, some parliamentary secretaries, a simple letter asking for the widest possible support for action involving the naming of a committee to examine the provisions of the Official Secrets Act. So far the result is that I have received approximately 80 or 90 responses, even some from the government side. I did not send one to Your Honour, of course, because it would place Your Honour in a difficult position, nor did I send copies to members of the cabinet. In any event, I have received responses from all parties in the House. With the permission of the Postmaster General (Mr. Lamontagne) and the facilities here, perhaps we will receive some 100 responses, all of them except one being favourable, and some indicating variations of the possible order. I mention this because I think it provides an attitude of the feeling in the House toward this issue.

The United Kingdom has the same rule as the House, where a motion can be put down which is signed by 100 or 150 members. I am attempting to receive signed support of a motion such as that before the House now. The response has been very gratifying. Before the debate is over perhaps the Minister of Transport (Mr. Lang) will lend his vocal support to the issue. Of course I will wait for him to speak in this regard.

There are some clichés concerning freedom and democracy. It is not true to say that we are born free and automatically inherit institutions of democracy which are self-starting and self-sustaining. On the contrary, in a democratic country there is a constant struggle against governments. By their nature, governments have an inclination to be authoritarian, tyrannical, overly secretive, and one of their prime requirements is to cover up embarrassments, mistakes, and sometimes touches of corruption. I say this of all governments. Because of long experience in this House, the present government has a special expertise in this regard, particularly respecting the hiding of information and taking steps to conceal facts and documents which to any extent may be considered embarrassing. Of course that touches upon the issue before us, the Official Secrets Act and the use which can be made of it.

Recently many people in this country were somewhat shocked to learn of the nature and history of our Official Secrets Act. I should like to take a very few minutes to comment on that aspect of the problem. The Official Secrets Act did not spring into being fully armed like the figure in Greek mythology. It was brought about in its present form

mainly by the machinations and desires of senior bureaucrats in government.

In the nineteenth century in the United Kingdom, a clerk of the foreign office, who was doubling in brass and making extra money writing for the press, had a phenomenal memory. He was able to memorize foreign dispatches, return to his home, and write stories concerning them for the newspapers. He did this at the time of a very important meeting in Europe. As a result, a great deal of trouble was created. If I can quote the prime minister of the day who stated his disapproval, "All hell broke loose in the United Kingdom". This clerk was prosecuted, and the charges against him were dismissed because it was found that there was no charge under the then criminal code to deal with that particular case. Thus the first Official Secrets Act was born under those circumstances. It dealt exclusively with issues of national defence, espionage, and foreign relations. There was no law then; there had to be one and, quite properly so, one was passed.

Some years later enterprising bureaucrats, supported by people in government, improved upon and added clauses to the British act. It expanded the act to cover the disclosure of any official government information. That was the British experience. There were a number of prosecutions under it. As far as I could find out, none of the prosecutions were in secret. During the war there were secret trials, but they were held under the treason provisions where spies were charged, found guilty, and executed. These secret trials were held under the criminal provisions and not so much under the Official Secrets Act.

In 1939 in Canada, when we were approaching the eve of the Second World War, in the type of hysteria and attitude which prevailed at that time this country passed its own Official Secrets Act. To all intents and purposes, it was a replica of the British Act. I emphasize this to hon. members of the house. It was passed with no debate at all. There was no debate at second reading stage. There were a few comments at the time of clause by clause discussion.

The then minister of justice, Mr. Lapointe, who perhaps was badly advised by his officials, told the House that this was an act dealing with espionage and defence only. The only critic, an hon. member of the then C.C.F. party, who dealt with the issue said precisely the same thing.

Whereas in fact the direct copy of the British act brought within the ambit of sanctions and criminal action every minor leakage of official documents of any kind, any public servant who gave or any person who received documents was caught within the fine mesh of Section 4 and other sections of the particular act. What had been a weapon of defence against enemies without, became an offensive mechanism for governments and bureaucrats to deal with embarrassments within. In other words, it became part of the danger within. In my humble opinion, I consider the text and the provisions of the act, as it stands today, to be a very grave danger at this time.