amendment, namely that a judge would not always be available, that this would over burden federal courts and that in the final analysis confidential matters would be debated in public. Upon analysis, I do not think either of these arguments would stand up. On the one hand, we have often seen judges of the Federal Court issue orders in the evening or during the night. Similarly, judges of the Federal Court have made themselves available to the government, for instance during the strike of air traffic controllers, last summer.

We have also seen some judges direct that hearings be held *in camera* in special cases where public interest and security were at stake. Therefore, the arguments that were made against this amendment No. 29 do not seem to take into account the availability of the Federal Court judges, nor the confidentiality which can be assured by the courts; finally, the usefulness and the essential part that the courts play in the matter of people's basic rights have not been recognized either. This first amendment, Mr. Speaker, is to me but another trade-off which seems to be the minimum that can be granted if we want to provide to non-permanent applicants a basic right that we would recognize as citizens of a free and democratic country, which gives a high priority to the rule of law and the involvement of courts in the supervision and control of the power of discretion, with the essential significance that they must retain throughout these security activities.

I do not want to prejudge the recommendations of the Royal Commission set up by the hon. Solicitor General, which we will discuss. I simply want to emphasize that the recommendations of the U.S. Senate report are very conclusive. They recommend that security activities be subject to the supervision and control of American courts, and that the spending power of security agencies be subject to the control of the Auditor General. Again, I do not want to go beyond the recommendations of the Canadian Royal Commission but members of parliament may have eventually to amend the law of the land if they want to give effect to those recommendations which will enable the courts to exercise a tighter control over the security activities performed by the RCMP.

Clause 40 includes certain provisions which, as I pointed out at the outset, refer to applicants who are permanent applicants, who have the status of permanent applicants. The amendment to that clause is an amendment which I think gives the advisory board a power that once again would tend to give it the status of a court of justice. The advisory board as set up in clause 40 is strictly an advisory body and its recommendation which could be in favour of an applicant could be dismissed by the governor in council. In other words, the favourable aspect of the decision which might be made by the advisory board could always be disregarded in a decision of the governor in council, without any right of appeal. We all recognize that the rights of a permanent applicant are and should be a lot more extensive than those of a non permanent applicant.

The proposed amendment to clause 40 basically provides that decisions in favour of an applicant which could be made by the advisory board would be mandatory and could not be quashed by the governor in council. Again, that seems to me to be the minimum compromise which could be sought to try and give that body the power of independence and inquiry that would normally make it look more like a court of justice. Otherwise, it would be a purely intermediary stage that has no effect on the rights for which protection is sought. Once again, that amendment to clause 40, amendment No. 31, appears to me to be a minimum.

Mr. Speaker, I would like to remind the Minister of Manpower and Immigration (Mr. Cullen)—and I know he is aware of it—that in 1969, the commission presided by Mr. Mackenzie, of which former Air Canada president Yves Pratte was a member, recommended that in the area of security, a permanent applicant would not be denied his rights before he has been allowed access to the due judicial process.

If one reads the recommendations of the Mackenzie commission of 1969, one realizes that these recommendations were extremely strict and extremely tight vis-à-vis the rights of citizens as regards security. Now the Mackenzie commission itself recommended in 1969 that the case of permanent applicants be subject to a complete legal process. It is therefore unnecessary, Mr. Speaker, to take exception to or dismiss at once the proposed amendment to clause 40, since it is aimed at establishing a procedure which remains well within the suggestion made by the Mackenzie commission in 1969.

I would also like to point out, Mr. Speaker, that in the case of section 41, amendment No. 32 is aimed at having three retired judges on that advisory board instead of only one. Several objections have been raised to those proposals. Finally, an arrangement was concluded by the Minister of Manpower and Immigration, an arrangement which has finally allowed us to obtain that one of three positions be filled by a retired judge. Once again, several objections were raised: few judges available, courts are overburdened, security files would be made public. Looking back at the statements which have been made, Mr. Speaker, it is to be regretted that as legislators we are not favourably disposed towards the courts when it comes to national security. And as I said earlier, the U.S. Senate has already had the opportunity to vote more specifically on the role of courts in the context of national security. And once again, perhaps as legislators, we will have to reconsider during the months to come some bills whose object will be to extend the control of courts in the context of national security. I think that we are overly eager to associate the role of courts with the public character of court operations.

Court action does not necessarily mean public hearings. My colleagues who have experience with the Criminal Code and related statutes, know that in some cases it is possible to ensure confidentiality of the debates. I believe it is fair to state that in the past, the vast majority of judges have always fulfilled this responsibility in the most exemplary way, and there is no ground to fear that security files may get lost in court.

Unfortunately, as we found out in the last few months, files sometimes get out of police hands much more readily than out of courts of justice and magistrates' Chambers. Therefore, I do