

The defence counsel could easily have been warned by the judge—I have seen it happen many times, and have been warned myself—that he was going too far. If necessary they could have made orders for exclusion as they were needed.

I have been informed that the Crown prosecutor in this case also did a search but could not find any precedent in law which showed a complete trial held in secrecy in Canada. He has no knowledge of any such precedent although he did some research into the matter.

It is stated in an article which appeared in the *Montreal Gazette* of May 29, 1978 by Lew Diggs of the Canadian Press:

But prosecutor Handfield said “the whole transcript would have to remain secret” even if it was reviewed today. The only possible exception, he added, was testimony from an RCMP officer who raided Treu’s west-end home March 29, 1974, and hauled off about 500 pounds of documents, some of which were used in the trial.

The prosecutor indicated that there were areas in respect of which it was not necessary for the public to be excluded, as there would have been had matters of state secrecy been involved. So we have the prosecutor and one of the investigators both suggesting that the public could have been admitted. I do not know how we in this country can tolerate such a thing as a secret trial from beginning to end. I suggest that is intolerable and in this case it is unfortunate.

I want to refer to a very much celebrated British case, that of George Blake. I have a copy here of an editorial which appeared in the *Toronto Sun* of May 17, 1977.

The article says that when Soviet master spy George Blake has a secret trial in Britain at least the opening and the closing sessions were open to the public. The evidence at those sessions was so damning and compromising to the state that it could not be revealed in total, and Blake was sentenced to 42 years. Then he escaped to Moscow.

In closing, Mr. Speaker, I want to point out something that apparently has not been brought forward, and of which I think the Minister of Justice should be made aware. Let me read sections 14(1) and (2) of the Official Secrets Act as follows:

For the purposes of the trial of a person for an offence under this Act, the offence shall be deemed to have been committed either at the place in which the offence actually was committed, or at any place in Canada in which the offender may be found.

In addition and without prejudice to any powers that a court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a court against any person for an offence under this Act or the proceedings on appeal, application is made by the prosecution—

I want to emphasize those words “in the course of proceedings”. You must make an application in the course of proceedings; but the application in the case to which we have reference was made before the trial got under way. A trial is not under way until after a plea has been entered. In this case they did not wait until the course of proceedings. The section of the act states:

—if, in the course of proceedings before a court against any person for an offence under this Act or the proceedings on appeal, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings—

Official Secrets Act

Again, I would emphasize the words “in the course of proceedings” having regard to evidence to be given or statements made. It continues as follows:

—would be prejudicial to the interest of the State—

In other words, you can only make the application during the course of the proceedings for exclusion during the giving of evidence or the making of a statement which would be prejudicial to the interests of the state. There is not to be a *carte blanche* order in this country for the closing of a trial. There must be a good reason, and that is stated in the act. The act goes on to state, and I want to emphasize this:

—that all or any portion of the public shall be excluded during any part of the hearing—

Let me emphasize again the words “any part of the hearing, the court may make an order”. It says “any part”. It does not say the court can make an order in respect of the whole, but rather any part. I have not yet found a dictionary that describes “part” as being equal to the “whole”. The statute says specifically a part of the trial, not the whole trial.

Even though the defence lawyer sat silent, as I understand it, or said he had no representations at that time, I do not understand how a judge looking at the law could make a decision that a “part” all of a sudden becomes the “whole”. I will never know how that was done, because that is not what the law states.

With those remarks, Mr. Speaker, let me encourage members of the House in every way possible to accept the suggestion included in this motion; that we find some way of referring the subject matter to the committee. I hope the Minister of Justice will seriously consider the earlier question by the hon. member for Peace River as to whether he would direct a mistrial and order a new trial to be held in public, with some of the evidence being heard in secret, namely, those parts that are truly important to the national interest.

Mr. Roger Young (Parliamentary Secretary to Minister of Justice): Mr. Speaker, before commencing my comments today I should like to commend all members of the House who I have heard participate in the debate so far. It appears very much to me that the debate has been straight forward and worth while. I congratulate those persons who have spoken for the largely calm and deliberate tone they have set. The matter has had a fairly thorough airing today.

Members on all sides of this House are concerned about these serious matters. That is quite apparent, and I think that speaks very well for parliament and its day to day work. The conduct of the debate so far has been exemplary.

Let me preface my remarks by making one point regarding the motion for the hon. member for Peace River (Mr. Baldwin). He does include in his motion the following comment:

—this House notes with concern the secret trial of Alexander Peter Treu and the harassment of the *Toronto Sun* and its editor, Peter Worthington, under the provisions of the Official Secrets Act—

I could have risen earlier but I did not want to do so. I mention the matter now in only the most cautionary way. Members have had very great respect today for the *sub judice*