

NATIONAL SECURITY

STATEMENT ON APPLICATION OF OFFICIAL SECRETS ACT

Hon. Ron Basford (Minister of Justice): Mr. Speaker, during the past several weeks, considerable attention has been given in the House and in the country to the conduct of the hon. member for Leeds (Mr. Cossitt) involving highly sensitive national security information. This House is also aware of an article published in the *Toronto Sun* on March 7, 1978, which made detailed and explicit references to a secret document containing national security information. While the two events may appear to have been related, I wish to indicate at the outset that I have not been made aware of any information that would relate the hon. member for Leeds to the article which appeared in the *Toronto Sun*.

In each of these instances, it is clear that certain documents and information of the most sensitive nature have been unlawfully released by, or obtained from, someone authorized to have them. Unfortunately, the person or persons responsible for this unlawful release of information have not been identified. The investigation into the circumstances of the release of this information will continue to be vigorously pursued and appropriate action will be taken when possible.

In some circles, the public servant who leaks sensitive information has some approval and "glamour". In my view, they have none. Such actions are contemptible and cowardly.

If a person in the service of this country is so dissatisfied, as is that person's fundamental right, with the conduct of public business by a duly elected government, their remedy is not in skulking about delivering brown envelopes and thereby discrediting their associates who serve Canada with devotion and integrity. Their remedy is to resign and endeavour, through our free institutions, to influence public affairs and public opinion. That, Mr. Speaker, in my view, is the lawful, proper and courageous way.

Because of the importance of the issues involved in these matters, I think that this House and the people of Canada are entitled at the first opportunity to know the decisions that I have reached on whether prosecutions should be instituted under the provisions of the Official Secrets Act against the hon. member for Leeds or against others in connection with the publication of the article in the *Toronto Sun*.

The privilege of free speech in this chamber and the freedom of the press are matters which are fundamental to our democratic system. Decisions on issues which tend to draw these fundamental principles into conflict with the protection of our national security interests must be taken with great care. What may be seen by some as a matter to be decided with speed has therefore been seen by me as a matter that demanded decision with careful thought and consideration.

What I have had to face, and resolve to my satisfaction, is whether and under what circumstances to authorize prosecutions under the Official Secrets Act. I have been guided by those parliamentary, constitutional, and legal principles which should be taken into account by the Attorney General in the

Official Secrets Act

discharge of this particular responsibility. Mr. Speaker, it might be useful to set some of those out.

In arriving at these I have been guided by recognized authorities such as Lord Shawcross, Edwards, Erskine, May and Bourinot, and more recently and very helpfully, my valuable discussions with Commonwealth attorneys general in Winnipeg last summer on the office of attorney general, and more particularly my personal conversations at that time with the Attorney General of England and Wales and the Lord Chancellor.

I am aware that, since the enactment of the Official Secrets Act, this would appear to have been the first occasion in Canada where consideration has to be given to the provisions of the Official Secrets Act and the right of a member of the House to freely express his views in the House in the course of carrying on his parliamentary business.

The first principle, in my view, is that there must be excluded any consideration based upon narrow, partisan views, or based upon the political consequences to me or to others.

In arriving at a decision on such a sensitive issue as this, the Attorney General is entitled to seek information and advice from others but in no way is he directed by his colleagues in the government or by parliament itself. That is not to say that the Attorney General is not accountable to parliament for his decisions, which he obviously is.

Clearly, I am entitled to seek and obtain information from others, including my colleague, the Solicitor General (Mr. Blais), and the Commissioner of the Royal Canadian Mounted Police on the security implications of recent disclosures. This I have done.

In my view, the special position of the Attorney General in this regard is clearly entrenched in our parliamentary practice. Based on the authorities and on my own experience as a member of the government for ten years, which has included my three immediate predecessors, this special position has been diligently protected in theory and in practice.

Mr. Speaker, the second principle is that every citizen is subject to the law. One of the pillars of our system of government, dating back three centuries, is that neither the King nor any other person, be he a member of this House, a member of the government, a member of the press, or someone possessed of title or position, is above the law. The law should apply to all, equally. He who breaks it must bear the consequences.

Third, with today's differing ideological viewpoints between different countries, it is essential for the preservation of our democratic way of life that there should be maintained a strong and vigorous security service. In spite of all that has been alleged and what is properly being examined by the McDonald Commission, we are being well served by a group of dedicated individuals.

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The functioning of a security service by its very nature demands that most of its operations remain secret. Unlawful