

Official Secrets Act

the conclusion which he recommends is not shared by either the Mackenzie Royal Commission or the Franks Royal Commission, in Great Britain. The Franks Royal Commission, admittedly, comes closer than the Mackenzie commission to the kind of proposal which is made here, because they recommend that section 2 of their act, which is equivalent to Section 4 of our act, should no longer be dealt with under the Official Secrets Act, but should be dealt with by a different kind of legislation. They go on to advocate much more than the terms of this motion would allow as to using the remedies of the criminal law to deal with the release of government or official information.

● (1452)

Thirdly, I have to admit that I am disappointed with the presentation of the hon. member for Peace River because of the partisan, rather than the positive, tone and content of his presentation. In fact the hon. member for Halifax (Mr. Stanfield), who is perhaps now freer from such considerations than many of his colleagues and even perhaps members on this side of the House, gave the kind of presentation I would have expected from the hon. member for Peace River.

Mr. Baldwin: I gave him my power of attorney.

Mr. MacGuigan: I think it is highly useful at least that we have the statements of the hon. member for Halifax because he did attempt to explore the legislation and to say what he would criticize in it and what he thought should be involved in the replacement of the Official Secrets Act. That is what this debate is about, Mr. Speaker, if this debate is to be useful at all. It is not an occasion for partisan polemics, but it is an opportunity for us to influence future legislation in an area which is most important to this country. Later on I will refer to another reason why I am disappointed in the statement of the hon. member for Peace River.

Mr. Dick: What would you do about it?

Mr. MacGuigan: I will tell you what I would do about it. I propose to say how I think the legislation is wrong and to some extent how I think it should be amended, within the limitations of the time that is available to me.

With respect to the Treu trial, we have a most unfortunate situation. We have a lot of information that has reached the public, and I will be taking a lot of it from an article on the Treu trial by Lew Diggs of the Canadian Press which was in the *Montreal Gazette* of May 29, so that members who wish to see these facts will find them in one place.

That article refers to a statement by Treu himself. He said:

—a top civil servant in the Department of Supply and Services withdrew his security clearance without his knowledge while he continued to receive classified documents.

Apparently, however, Treu's own counsel said that although this may have been substantially correct, it was a very marginal factor in the decision of the case. I just wish we knew more about the case to understand that comment. The Crown prosecutor said:

[Mr. MacGuigan.]

—he called witnesses from NATO and the federal department of supply and services as well as "three military witnesses." All had to deal with highly classified documents and to discuss in detail the relationship between NATO and Canadian classification system.

Apparently, according to other newspaper reports, Mr. Treu was a one time designer of NATO air communications systems.

Mr. Baldwin: He still is.

Mr. MacGuigan: He still is, as we are told by the hon. member for Peace River.

Mr. Baldwin: He may have to carry on in jail.

Mr. MacGuigan: In looking at the judgment of the court, I am even more troubled because one would normally think it would reveal a lot about the facts in the case. In fact, it reveals more about the judge's philosophy than about what actually happened in the case. There are, however, several passages worth referring to. In one case the judge says:

[Translation]

... it is exceedingly difficult for a human being to try another human being or sentence him ... That is a task that is almost humanly impossible ...

[English]

He goes on, Mr. Speaker, obviously addressing Mr. Treu himself:

[Translation]

In your case it is even more difficult because your lawyers are right, you are an exceptional person, you are certainly not, in my opinion, a criminal; you have committed a criminal act but you are not what one would call an individual with a criminal career, far from it, you are a person who has had a most respectable life, who has great intellectual qualities, who as a human being is likeable, at least in my opinion, who has a family, who has children ...

[English]

In other words, the judge finds Mr. Treu an admirable person, and it seems that on the subjective side of the case he would be disposed to great leniency, but he talks about the necessity of looking at the objective side and of looking at the deterrent effect of sentencing.

I will not take the time to read much more of the judgment except for this one passage which indicates that Mr. Treu had legitimate access to the documents at least at certain times. The judge says:

[Translation]

Your lawyer drew my attention to certain circumstances—that the documents for which I have convicted you were your work tools, your intellectual property ...

[English]

Again, this makes it a bit more difficult to understand the result, which consisted of a sentence of two years' imprisonment, two years on the first count, which was under Section 4(1)(c) of the Official Secrets Act, and one year concurrent under Section 4(1)(d) of the same act.

I have not gone into the case to the extent that I have with a view to criticizing the judge. Rather, the point I make is that