That this House deplores the trial and extremely severe sentence given Yuri Orlov by the Soviet Union for his activities with the Moscow-Helsinki group, activities which in Canada would be perfectly acceptable.

We deplored that trial because it was held partially in secret and foreign correspondents and journalists were not allowed to attend. Yet here in our own country we have a trial which was held in absolute secrecy. How can we speak out of both sides of our mouth at the same time from this chamber? Therefore, I hope that the government will move, as was suggested by the hon. member for Peace River a couple of days ago, that the trial be declared to have been a mistrial and that the next trial be held in the open.

Having secret trials makes people think of, perhaps, Danté's "Inferno", the Star Chamber practices which took place in years gone by, or perhaps the practices that took place in Europe during the second world war. I think many people would want to forget that. We in a free, democratic country want to know that we have the right to free, public and open trials, because it is only by having a free, open and public trial that justice can not only be done but can be seen to be done.

I would like to sketch in a few things. It is my understanding that Alexander Peter Treu in 1974 had his documents seized for the first time and finally, after two years, charges were brought against him in 1976. After he had been charged in Canada, he was given contracts by NATO on security matters. I understand that the last contract was given to him in 1977 and even now that he is sentenced he is still working on that contract. I suppose that if he had not appealed and had gone to jail, he would be doing work on NATO's communication system. Would that not be interesting! This seems ludicrous, but that is what has actually happened in this case. What concerns me is that, even if there were a technical breach in this case, there is a judgment on the minister as to whether or not he would prosecute.

According to some of the comments the judge is alleged to have made in passing sentence, Peter Alexander Treu is not a criminal and cannot be considered a criminal. He is a brilliant man and he is continuing to do his work, but in a technical way he has breached the law. If it is a technicality, why was discretion under section 10 of the Official Secrets Act not applied? Section 10 says "may be arrested"; so a person may be arrested but does not have to be arrested. There is also discretion under section 12, which states:

A prosecution for an offence under this act shall not be instituted except by or with the consent of the Attorney General;—

The Attorney General of Canada had to give his consent, so again there was an overact after the delay, even though, at the very most, it might have been a technical breach of the law. Then in section 15 the Attorney General can elect whether to go by way of summary conviction or by way of indictment. Summary conviction carries a fine not exceeding $500 and imprisonment is not to exceed 12 months. But they proceeded by indictment, which could mean imprisonment up to 14 years.

What is interesting was that Treu was charged under section 4 of our Official Secrets Act, which is equivalent to section 2 of the British official secrets act. But the British official secrets act limits penalties under section 2 to two years, whereas our act carries a much more onerous penalty of up to 14 years. Bearing in mind those considerations and the overact by the Attorney General of Canada in exercising his discretion in proceeding by way of indictment and allowing a prosecution to take place, all this is of great concern to us and should be of concern to all Canadians.

It has been brought out that there have been only eight prosecutions under the present Official Secrets Act. The British official secrets act was first passed in Great Britain in 1889. It was adopted in the Canadian Criminal Code in 1892. It became a new statute and was passed in England in 1911. We adopted the statute holus-bolus in Canada until the Statute of Westminster in 1931. Technically we relied on the Criminal Code provisions without having an official secrets law between 1931 and 1939 when we adopted our Official Secrets Act modelled on the one passed in Great Britain in 1911. As I said, there have only been eight prosecutions under the act, but for the first time in Canadian history a trial has been carried out in Canada in complete secrecy.

The Gouzenko trial and the Rose trial were not held in secrecy. An application was made in front of an open court for portions of the trial to be held in secrecy because of certain reasons which were stated. Thus there was exclusion of the public for a short period of time. When the sensitive area had been dealt with, reporters were allowed back into court.

● (1552)

In 1961 the public was admitted to the trial of the Biernacki case, in which he was acquitted before he went back to Poland. In 1967 at the time of the Featherstone case, again press reporters and the public were allowed to attend. During that trial an application was made to exclude the public from portions of it.

I should like to indicate that I have carefully researched the law in this regard. Perhaps I am somewhat unique. Unlike the Minister of Transport and the hon. member for Windsor-Walkerville who are knowledgeable in theoretical approaches to the law, having been deans of universities, my experience has been a far cry different. Many persons who have studied law often wonder why they bothered to attend university, particularly when one compares the theoretical approach at university to the practice of law in the courts.

I have had an opportunity to prosecute on behalf of the Crown in Canada, wherein I made applications under section 44(2) of the Criminal Code which provides for excluding the public from all or portions of a trial. Because evidence was going to be disclosed indicating the procedure Bell Canada used to make credit card numbers, on one occasion it was necessary to make an application for exclusion of the public. The accused was being charged for a telecommunications theft. I explained to the judge that it would be necessary to establish how credit card numbers were arrived at. If that information was given in an open court, anyone who was present could make up a credit card number. Thus, the entire system would have been frustrated. Because it was not to the