SENATE OF CANADA

REPORT
of the Special Committee
of the Senate on the

CANADIAN SECURITY INTELLIGENCE SERVICE

Delicate Balance:
A Security Intelligence Service in a Democratic Society

NOVEMBER 1983

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MEMBERSHIP OF THE COMMITTEE

The Honourable P.M. Pitfield, Q.C., *Chairman*

The Honourable Sidney L. Buckwold, *Deputy Chairman*

and

The Honourable Senators:

Balfour, James, Q.C.
Godfrey, John Morrow, Q.C.
Kelly, William M.
Lapointe, Renaude, P.C.
Nurgitz, Nathan, Q.C.
Olson, H.A. (Bud), P.C.
Riel, Maurice, Q.C.
Riley, Daniel, Q.C.
Roblin, Duff, P.C.

Nota: The Honourable Senators Jean LeMoyne and George J. McIlraith, P.C., Q.C., also served on the Committee at various stages.

The Committee takes this opportunity to make special mention of the valuable contribution to its work by the Honourable Senators Jacques Flynn, P.C., Q.C., and Royce Frith, Q.C. Unfortunately, illness prevented Senator Flynn from participating in the concluding meetings.

Research Officers:

From the Research Branch, Library of Parliament:
Messrs. Donald Macdonald and Philip Rosen.

Erika Bruce
Timothy Ross Wilson
Clerks of the Committee

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, June 29, 1983:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion, as modified, of the Honourable Senator Olson, P.C., seconded by the Honourable Senator Frith:

That a Special Committee of the Senate be appointed to examine and consider the subject-matter of the Bill C-157, intituled: "An Act to establish the Canadian Security Intelligence Service, to enact An Act respecting enforcement in relation to certain security and related offences and to amend certain Acts in consequence thereof or in relation thereto", in advance of the said Bill coming before the Senate;

That the Committee have power to send for person, papers and records, to examine witnesses, to print such papers and evidence from day to day as may be ordered by the Committee and to sit during sittings and adjournments of the Senate;

That the Committee submit their report not later than 27th October, 1983;

That the Committee have power to act jointly with any committee appointed by the other place to examine the subject-matter of the aforementioned Bill; and

That a Message be sent to the House of Commons to request that House, if it deems it advisable, to appoint a committee to act jointly with that already chosen by this House.

After debate, and—
The question being put on the motion, as modified, it was—
Resolved in the affirmative, on division.

With leave of the Senate,
The Honourable Senator Frith moved, seconded by the Honourable Senator Olson, P.C.:

That changes in the membership of the Special Committee of the Senate on the subject-matter of the proposed Canadian Security Intelligence Service Act may be made by notification thereof, signed by the Leader of the Government in the Senate, or any Senator named by him, with respect to government members, and by the Leader of the Government in the Senate, or any Senator named by him, with respect to opposition members, being filed by him, with

respect to opposition members, being filed with the Clerk of the Senate who shall cause the same to be printed in the *Minutes of the Proceedings of the Senate* of that sitting, or of the next sitting thereafter, as the case may be.

The question being put on the motion, it was—

Resolved in the affirmative.

With leave of the Senate,

The Honourable Senator Frith moved, seconded by the Honourable Senator Olson, P.C.:

That Rule 66(1)(*b*) be suspended in relation to the nomination of Senators to serve on the Special Committee of the Senate on the subject-matter of the proposed Canadian Security Intelligence Service Act; and

That the following Senators be appointed to act on the said Special Committee, namely, the Honourable Senators Balfour, Buckwold, Flynn, Frith, Kelly, McIlraith, Nurgitz, Olson, Pitfield, Riel and Riley.

The question being put on the motion, it was—

Resolved in the affirmative."

Extract from the Minutes of the Proceedings of the Senate, Tuesday, October 25, 1983:

"With leave of the Senate,

The Honourable Senator Frith moved, seconded by the Honourable Senator Langlois:

That the Order of Reference establishing the Special Committee of the Senate on the Canadian Security Intelligence Service be amended by deleting the words "27th October, 1983", and substituting therefor the words "3rd November, 1983".

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative."

Charles A. Lussier
Clerk of the Senate

REPORT OF THE COMMITTEE

Thursday, November 3, 1983

The Special Committee of the Senate on the Canadian Security Intelligence Service which was authorized to examine and consider the subject-matter of Bill C-157 intituled the *Canadian Security Intelligence Service Act* has, in obedience to its Order of Reference of June 29, 1983, proceeded to that inquiry and now presents its report:

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INTRODUCTION

1 Bill C-157, given first reading in the House of Commons on May 18, 1983, would mark a new and important departure in the treatment of Canada's security needs. The Bill would establish an entirely new security intelligence agency separate from the RCMP. The agency so formed would not be police in nature; it would have a legislated mandate; and new control and review mechanisms would be added to attempt to ensure the propriety and effectiveness of the agency's activities.

2 The Committee is mindful of the significance and importance of the proposals in Bill C-157 and, in fulfilling the terms of its Order of Reference from the Senate of 29 June 1983, has undertaken as thorough a study of the subject-matter of the Bill as time and circumstances have permitted. The Committee has heard over 30 witnesses in 18 days of hearings, and has also considered numerous other submissions from the public.* We have heard from a fairly representative cross-section of public opinion on Bill C-157, including the legal community, the police, human rights organizations, political groups, and representatives of provincial governments. In so doing, the Committee has also acquired a degree of familiarity with the difficult issues involved with legislating in this area. We believe that this has been a useful and constructive enterprise, and hope that this report can adequately reflect some of the incisive and judicious testimony and recommendations which we have heard. We also hope that the proposals made in this report can contribute to the process of formulating legislation in this area that is both effective and congruent with democratic principles.

3 Before proceeding to our analysis of the subject-matter of the Bill, it is first necessary to address a number of matters which underlie the proposed legislation. One of the most important of these matters is the delicate balance which must be achieved, in security intelligence matters, between the protection of individual rights and the protection of collective security. Discussed in more detail below, it should be noted at this point that this balance is an issue which runs through and informs virtually every part of this report.

* A list of witnesses is appended: Appendix A.

MATTERS PRELIMINARY AND FUNDAMENTAL

4 Some issues relating to the subject-matter of the Bill are necessarily preliminary to a consideration of it, and are of such a fundamental nature as to merit consideration throughout this report. They will, accordingly, be dealt with first.

1. The nature of the threat — the need for a security intelligence service

5 This is surely the most basic issue to be addressed in dealing with the subject-matter of Bill C-157. Are there threats to Canada's security? If so, are they of such significance that a distinct security intelligence capability is required?

6 The Committee believes that both questions must be answered in the affirmative. Both the Royal Commission on Security (The "MacKenzie Commission") in 1968, and the Commission of Inquiry Concerning Certain Activities of the RCMP (The "McDonald Commission") in 1981, found that there was, and is, a need to protect the security of Canada from threats both external and internal. The MacKenzie Commission found that the state had a duty to:

> protect its secrets from espionage, its information from unauthorized disclosure, its institutions from subversion and its policies from clandestine influence.

The McDonald Commission found that in the protection of the security of Canada there are two basic needs:

> first, the need to protect Canadians and their governments against attempts by foreign powers to use coercive or clandestine means to advance their own interests in Canada, and second, the need to protect the essential elements of Canadian democracy against attempts to destroy or subvert them.

The McDonald Commission identified threats to Canada's security as falling into three basic categories: activities of foreign intelligence agencies, political terrorism, and subversion of democratic institutions. It further

found that these types of threats could not be dealt with solely by law enforcement agencies. Advance intelligence is required in any credible attempt to protect security, and a distinct security intelligence capacity is the only realistic source of such intelligence.

7 It should be noted that, while there was considerable divergence among witnesses before the Committee as to the appropriate mandate, powers, structure and location of a security intelligence agency, no witness questioned the need for such an agency. There was, indeed, substantial disagreement among witnesses as to the extent and seriousness of threats to Canada's security. But, again, no witness claimed that there were no threats, or that the threats were so minimal as to require no significant response. The debate before the Committee on Bill C-157 demonstrated implicit acceptance of most of the basic principles enunciated in this area by the MacKenzie and McDonald Commissions. Accordingly, the Committee has found that the need for a security intelligence capacity has been demonstrated. What must be addressed is the extent and configuration of that capacity.

2. Jurisdiction

8 The issue of jurisdiction, at least in relation to the establishment and operation of a security intelligence agency, is clear and easily disposed of. The Committee believes that legislative authority in this area clearly resides with the federal government. Ensuring the security of the collectivity is a matter of national importance, and is a distinct subject-matter which does not fall within provincial jurisdiction. Federal authority in the areas of national defence, criminal law and procedure, and "peace, order and good government" all buttress the claim that only the federal government has the jurisdiction to establish an agency with the scope and powers as that contemplated by Bill C-157. No witness seriously challenged federal competence in this area. This is not to deny the provinces a role in security matters; but merely to assert that only the federal government can bring into existence and maintain an agency of this kind.

9 While federal primacy in this area is, in our opinion, beyond dispute, what is less clear is the question of the limits of that competence. Several witnesses, in particular representatives of the provincial law officers of the Crown, have challenged the attempt in Part IV of the Bill to potentially exclude the provinces from participation in the prosecution of security-related offences, and to give the RCMP "primary responsibility" for police work in relation to such offences. This matter will be dealt with in that part of this report which discusses Part IV, the proposed *Security Offences Act*.

10 A final issue involving the question of jurisdiction has to do with the effect which the *Canadian Charter of Rights and Freedoms* may have on Bill C-157. Some witnesses who appeared before the Committee contended that several provisions of the Bill constitute *prima facie* infringements of fundamental freedoms and legal rights which are guaranteed by the *Charter*, such as freedom of thought, belief, opinion and expression; freedom of peaceful assembly and association; the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice; and the right to be secure against unreasonable search and seizure. Other witnesses went further and declared that the whole thrust of the Bill was inconsistent with the spirit of the *Charter*.

11 It would be difficult to disagree with the contention that some of the provisions of Bill C-157 may, without consideration of the question of reasonable limits, be construed as infringing on some *Charter* rights. Indeed, any effective security intelligence agency will require the use of extraordinary powers which have the potential for conflict with civil liberties. But the Committee disagrees with those who contend that a statute establishing a security intelligence agency is fundamentally incompatible with the *Charter*. The fact that an attempt is being made to legislate in this area is, we think, a clear indication that the government recognizes the need for effective limits, control and review of our security intelligence capacity.

12 With respect to the particular question of the constitutionality of certain elements of the Bill, the Committee takes the position that any detailed discussion of the *Charter* would, of necessity, be highly speculative. The Committee is, however, confident that a Bill amended as recommended in this report would be compatible with the *Charter*, and that whatever infringements of rights and freedoms which may result could be considered "reasonable limits ... as can be demonstrably justified in a free and democratic society."

3. The distinction between law enforcement and security intelligence operations

13 Once it is accepted that a distinct security intelligence capacity is required, cognizance must be taken of the fundamental differences between a system established for enforcement of the law, and a system established for the protection of security. There are similarities between such systems, and a distinct area of overlap in which the interests of a police force in certain crimes against the state, or against particular individuals, are identical to the interests of a security intelligence agency.

14 But the differences are considerable. Law enforcement is essentially reactive. While there is an element of information-gathering and prevention in law enforcement, on the whole it takes place after the commission of a distinct criminal offence. The protection of security relies less on reaction to events; it seeks advance warning of security threats, and is not necessarily concerned with breaches of the law. Considerable publicity accompanies and is an essential part of the enforcement of the law. Security intelligence work requires secrecy. Law enforcement is "result-oriented", emphasizing apprehension and adjudication, and the players in the system — police, prosecutors, defence counsel, and the judiciary — operate with a high degree of autonomy. Security intelligence is, in contrast, "information-oriented". Participants have a much less clearly defined role, and direction and control within a hierarchical structure are vital. Finally, law enforcement is a virtually "closed" system with finite limits — commission, detection, apprehension, adjudication. Security intelligence operations are much more open-ended. The emphasis is on investigation, analysis, and the formulation of intelligence.

15 The differences between law enforcement and the protection of security have profound implications for several aspects of a security intelligence régime. They can have effect on many questions of policy, such as how much power or freedom of action a person employed in a security agency should have; or obversely, how much protection a person who is the object of investigation can have in light of the differences between operational means and investigative ends. An investigation related to security can have severe consequences on a person's life. Thus the question of control and accountability becomes important, because there is no impartial adjudication by a third party of the appropriateness of an investigation. Since it is so open-ended and confidential in nature, security intelligence work requires a close and thorough system of control, direction and review, in which political responsibility plays a large part. Such close direction is incompatible with our traditional notions of law enforcement.

16 The distinction between law enforcement and the protection of security is one which should be kept in mind throughout our analysis of the subject-matter of the Bill. It forms a large part of the basis for several recommendations which are made.

4. Civilianization

17 The foregoing discussion of the distinction between law enforcement and the protection of security leads logically to consideration of one of the major and fundamental changes proposed in Bill C-157. That is the

separation of the security intelligence function from the RCMP, and the establishment of a civilian agency.

18 The witnesses who have appeared before the Committee have forcefully presented the arguments on both sides of the civilianization issue. While conceding that some of the arguments for retaining the Security Service within the RCMP are valid, a majority of the Committee is strongly of the opinion that it is necessary to proceed as proposed in the Bill and establish a civilian agency. One member of the Committee, Senator Kelly, disagrees. He maintains that the RCMP should retain the security function, but is otherwise in accord with the Committee as to the rest of this report.

19 In coming to this conclusion, we have been influenced by the findings of the MacKenzie and McDonald Commissions, which both proposed a civilian agency. Those findings were emphasized by several witnesses. There is a need for a fundamental re-orientation of management of security intelligence, extending from control of operations to the relationship of the service to government. The RCMP has, in the past, proved to be extremely resistant to such changes. It may be impossible (and undesirable) to impose such controls on a police organization. In addition, there is a need for a new type of recruit, with a different outlook and education. Analytical and assessment skills must be greatly increased. The RCMP recruitment system has, and continues to produce excellent policemen, but we subscribe to the view that, to a critical and substantial extent, security work requires individuals with a different background. Furthermore, the relationship between the government and the agency must be very close, and the agency must be stringently monitored and reviewed by third parties. Such a relationship would be neither appropriate nor possible with a police force. At present, the Commissioner of the RCMP consults with the Solicitor General in two capacities, as head of both a police and a security organization. There is a great potential for confusion or mixture of those roles, to the disadvantage of the police, the security agency, and the system of ministerial responsibility and accountability. Finally, there is inherent in the combination of law enforcement and security duties the danger of the creation of what the McDonald Commission referred to as a "political police". Police forces must function with a high degree of autonomy. But such autonomy is incompatible with the strict process of control and review which must be exercised with respect to a security force.

20 We recognize, of course, that civilianization will not be a panacea. Considerable effort must be made to ensure that a precise mandate is prescribed and that effective controls are imposed on the agency. We also recognize that there will, inevitably, be difficulties in the transition to a

civilian agency. For example, there is the danger of a loss of effective liaison with other agencies, and the concern that the agency might be more subject to penetration by foreign powers once removed from the RCMP. These are issues which must be addressed in the transition, but they do not, in our opinion, outweigh the benefits to be gained from the creation of the new agency. In this regard, it should be noted that, in its initial stages, the CSIS would be composed entirely of former RCMP Security Service employees, and that changes in personnel would be gradually introduced. This should alleviate many of the concerns as to the transition.

21 We also note that an RCMP role in security matters will continue to exist in areas having to do with security operations and the enforcement of the criminal law. A special branch of the force is to be established to deal with the CSIS for these purposes. Not least because of the useful check it will put on the CSIS, this is an important matter, and will require special attention during the establishment of the CSIS.

22 Before leaving this area, we would like to stress the fact that the creation of a new agency will not diminish or devalue the extremely important work of the RCMP. It should be recognized that some of the difficulties experienced in the past with the Security Service arose less from any inherent defect in the RCMP or its personnel, than from an unsatisfactory institutional framework and the undesirable mixture of police and security functions. We would hope that the creation of a new agency would introduce a welcome degree of certainty for the force. It is possible, however, that prolonged delay in the separation of the security function will affect the morale of the RCMP. The Committee is concerned about this possibility, and expresses the hope that the transition can be effected quickly, efficiently and with minimal disruption of RCMP activities so that the force can resume its policing functions with characteristic expertise, and maintain its undoubted prestige.

5. The security of the collectivity and individual rights

23 This matter is perhaps the most important to be considered when dealing with the subject-matter of the Bill. The need to balance collective security — the safety of the state and its institutions from threats of espionage, terrorism and subversion — with individual rights to privacy, to dissent, to be politically active and to hold and express unpopular or radical opinions is a challenge to be faced in the establishment of a security intelligence system. There is a very basic tension between the concepts of collective and individual security, and it must be addressed at virtually every stage of the formation and operation of a security intelligence agency. To a significant degree, it must be noted, individual rights depend

upon maintenance of collective security. Both ends are desirable, but they also make competing demands on the institutions of a democratic state. Either end, by itself, could be easily attained, but at great expense to the other. The crucial task is to arrive at an appropriate balance of the two.

24 The *raison d'être* of a security intelligence agency is the preservation of a free and democratic state in which individual liberty can be maintained. Thus, the degree to which such an agency impinges unjustifiably on freedom is a measure of its failure. The McDonald Commission expressed this concern as follows:

> Canada must meet both the requirements of security and the requirements of democracy: we must never forget that the fundamental purpose of the former is to secure the latter. Those who seek to subvert Canada's democratic institutions would realize an ironic victory if Canadians were to permit their governors to violate the requisites of democracy in the course of protecting them from its opponents.

25 It is with these matters in mind that the Committee has approached its analysis of the Bill. A credible and effective security intelligence agency does need to have some extraordinary powers, and does need to collect and analyze information in a way which may infringe on the civil liberties of some. But it must also be strictly controlled, and have no more power than is necessary to accomplish its objectives, which must in turn not exceed what is necessary for the protection of the security of Canada. As in our discussion of the *Charter* above, we submit that any limitations on rights and freedoms caused by a security intelligence agency must be reasonable, within section 1 of the *Charter*.

26 The Committee thus makes a number of recommendations which, in its opinion, would lead to a more appropriate balance between collective and individual security. The Committee acknowledges the fact that striking such a balance is a difficult endeavour. It hopes that this report will be of assistance in the final formulation of legislation in this area.

AN ANALYSIS OF THE SUBJECT-MATTER OF BILL C-157

27 Bill C-157 does provide a comprehensive framework for the establishment of a security intelligence agency. Its main structural elements are basically sound. The Committee does, however, recommend several adjustments, clarifications and additions, which it submits to improve the proposed legislation. This report will adopt a functional approach, rather than a clause by clause analysis, in order to facilitate a clear understanding of the rationale for its proposals. Accordingly, we will commence with an analysis of the mandate and functions of the CSIS. The report will then proceed to a discussion of: the powers and immunities of employees; management, control and responsibility for the agency; monitoring and review of operations; and other matters not subsumed within the foregoing. The analysis will conclude with a discussion of Part IV of the Bill — the proposed *Security Offences Act*.

1. The mandate and functions of the CSIS

a) The primary function and mandate

28 What might be termed the "primary function" of the proposed agency is to be found in s. 14(1) of the Bill:

> The Service shall collect, by investigation or otherwise, and analyse and retain information and intelligence respecting activities that may on reasonable grounds be suspected of constituting threats to the security of Canada and, in relation thereto, shall report to and advise the Government of Canada.

This subsection, on its face, is unobjectionable. It sets out clearly what the principal activity of any security intelligence agency should be: investigation, analysis and the retention of information and intelligence on security threats. This, of course, then leads to a very important question, the answer to which is crucial to the scope of the agency's power: what constitutes "threats to the security of Canada"? In brief, how is the agency's mandate to be defined?

29 Before addressing this question, however, the Committee feels that it would be useful to stipulate an immediate limitation on the primary function in section 14. It has in mind what the McDonald Commission recommended, and what several witnesses endorsed: that there be included in the statute words which would indicate that the agency's mandate should not be given an overly expansive interpretation. The McDonald Commission suggested, in part, the following:

> that the legislation establishing Canada's security intelligence agency contain a clause indicating that the agency's work should be limited to what is strictly necessary for the purpose of protecting the security of Canada ... (Recommendation 4, p. 443, *Second Report*)

30 Adding words to this effect to s. 14(1) would, we believe, have a salutary effect on its interpretation. The recommendation in that Report also went on to include words which are found in s. 14(3) of the Bill.[1] The Committee is of the opinion that this formulation is also useful, but that it should be expressed affirmatively, and within the definition of security threats, as discussed below.

31 This, then, brings us back to the question of mandate. Section 2 contains the definition of "threats to the security of Canada". One cannot overstate the importance of this definition. It constitutes the basic limit on the agency's freedom of action. It will establish for the CSIS, its Director, and employees the fundamental standard for their activities. It will enter crucially into judicial determination of whether a particular intrusive investigative technique can be used. And it will provide a benchmark for assessment of agency activities by review bodies, and by the agency's political masters. It will not, however, create a crime or crimes.

32 Not surprisingly, the definition has received attention commensurate with its importance from witnesses and in submissions to the Committee. The Committee agrees with many of the criticisms made of the definition. We do believe, however, that the four elements of the definition — espionage and sabotage; foreign-influenced activities detrimental to Canada's interests; political violence; and subversion — establish appropriate parameters for the definition.

33 The first issue to be addressed with respect to the definition relates to the phrase "or any state allied or associated with Canada" in para-

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[1] Section 14(3) reads as follows:

> Nothing in this Act authorizes the Service to investigate the affairs or activities of any person or group of persons solely on the basis of the participation by that person or group in lawful advocacy, protest or dissent.

graphs (a) and (b).[2] The phrase would extend the scope of the mandate in relation to sabotage and espionage, and foreign-influenced activities to include the practise of such activities against such "allied" or "associated" states. The Committee agrees with those witnesses who contend that the phrase in question has the potential to unreasonably expand the agency's mandate. In particular, it finds the concept of "association" with other states to be unduly vague. As several witnesses have pointed out, this word could conceivably include all member states of the United Nations. It is true that the phrase is used in other federal statutes, notably the *Access to Information Act*, and the *Financial Administration Act*. But we do not believe that its use is appropriate for the purpose of defining threats to security.

34 The Committee recommends that the phrase be deleted from section two. In its place should be put reference to detriment to the interests of Canada. Thus, in paragraph (a), espionage and sabotage would constitute a threat if directed against Canada, or if those activities are otherwise detrimental to the interests of Canada. This would allow a particular analysis of whether any given act of espionage against another state should be a concern of the CSIS. Paragraph (b) already contains the phrase recommended, and thus the reference to association and alliance is surplusage. Beyond the offending phrase, the Committee finds paragraphs (a) and (b) to be acceptable.

35 Paragraph (c) deals with political violence.[3] It appears to be primarily directed against terrorism. No witness objected to the inclusion of such activity in the definition. Concern was expressed, however, with the scope of this definition. It includes activities directed toward or in support of "the threat or use of violence ... for the purpose of achieving a political objective ...". It is argued that this wording would not only catch acts of terrorism, but also relatively minor acts with political overtones. The typical example given was the throwing of a tomato at a political figure. This can be characterized as "violent" activity with a political objec-

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[2] Paragraphs (a) and (b) of the definition:

> (a) espionage or sabotage against Canada or any state allied or associated with Canada or activities directed toward or in support of such espionage or sabotage, (b) foreign influenced activities within or relating to Canada that are detrimental to the interests of Canada or any state allied or associated with Canada and are clandestine or deceptive or involve a threat to any person.

[3] Paragraph (c) of the definition:

> (c) activities within or relating to Canada directed toward or in support of the threat or use of acts of violence against persons or property for the purpose of achieving a political objective within Canada or a foreign state.

tive, but should it attract the attention of the CSIS? Since there is no qualification of the word "violence" in paragraph (c), a political tomato-thrower might well fall within its scope. The quite similar definition recommended by the McDonald Commission would have qualified the word "violence" with the adjective "serious". The Committee was urged by several witnesses to incorporate that word in paragraph (c).

36 The Committee appreciates the intent of this criticism, and agrees that minor acts of political violence should not be a great concern of the CSIS. But it does not agree that this difficulty would be resolved by adding the word "serious" to the definition. The word is so vague and susceptible of various interpretation that it would further confuse the issue.

37 The Committee believes that the problem can be dealt with otherwise. First, the addition of the qualifying words to s. 14, limiting the agency to what is strictly necessary to protect Canada's security (described above) would assist in excluding innocuous conduct. Second, the limitation added to s. 2 itself to protect lawful advocacy, protest or dissent, described below, would further restrict the CSIS. Finally, the adjustments suggested to s. 22, dealing with warrants (also described below) would further insulate minor political violence from the use of intrusive investigative techniques by the CSIS. But beyond these further limitations, the Committee believes that even minor political violence could be a concern of the CSIS, even if not the subject of its full investigative powers. In this regard, the tomato-throwing example is not particularly apt; but no less harmless conduct, closer to "serious" violence, might in particular circumstances constitute activities that have the potential to be threatening, or are incipient terrorism. We would not want to restrict the CSIS unduly at such a stage.

38 The final element in the definition is paragraph (d) which has been generally described as the "subversion" definition. This is perhaps the most difficult part of the definition of threats to deal with, because the activities it describes come closest to legitimate protest, dissent and advocacy. Indeed, it was suggested by some witnesses that subversion should not be a concern of the CSIS at all, specifically because it is so hard to distinguish from legitimate activities. The Committee does not agree with this approach. Even though the limits of subversion are hard to define, it can represent a threat to the security of the state. A state should be in a position to protect itself from illegitimate attempts to weaken its institutions. Having taken this position, however, the Committee believes it is necessary to tighten up the definition.

39 Paragraph (d) has reference to activities directed against the "constitutionally established system of government in Canada".[4] In its definition of "revolutionary subversion", the McDonald Commission referred to the "democratic" system of government. It was urged by several witnesses that the Committee adopt that formulation. We decline to do so, because the word "democratic" is too vague for this purpose. The Committee should not be taken as saying that we do not know what democracy means, in the popular sense. But for the purposes of a statutory definition, the word lacks clarity. Any word that has been used to describe political systems as diverse as those of Canada and, say, Albania, is too elastic to be used in such a critical statutory definition. Since there is no universally accepted concept of what inheres in democracy, using that term could actually have the effect of widening the scope of paragraph (d). The Committee would prefer to temper the perceived rigour of that paragraph in other ways.

40 Paragraph (d) has two arms. The first is "activities directed toward undermining by covert unlawful acts" the constitutionally established system. This part is unobjectionable. The second arm refers to "activities ... directed toward or intended ultimately to lead to the destruction or overthrow of the constitutionally established system." The Committee finds itself in agreement with some of the criticism directed at this part of the subversion definition. "Destruction" and "overthrow" do not necessarily include within their ambit violent or disruptive conduct. Thus it would be open for the CSIS under paragraph (d) to investigate the activities of a peaceful, legal political party, for example, which seeks to alter Canada's constitutional system. This would not be acceptable. Accordingly, the Committee would modify this second arm of paragraph (d) by including reference to destruction or overthrow "by violence". Peaceful and lawful agitation for constitutional change should not be considered a threat to the security of Canada.

41 It is at this point, after threats have been defined, that the Committee believes words similar to those in s. 14(3) of the Bill would be most effectively expressed. Thus, after describing the four types of threat, the definition in section 2 should go on to stipulate, clearly and affirmatively, that lawful advocacy, protest or dissent are to be beyond the investigative scope of the CSIS, unless carried on in conjunction with conduct which does otherwise constitute a threat.

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[4] Paragraph (d) of the definition:

> (d) activities directed toward undermining by covert unlawful acts, or directed toward or intended ultimately to lead to the destruction or overthrow of, the constitutionally established system of government in Canada.

42 A final suggestion which has been made to reduce the possible severity of the definition of subversion is to prohibit the use of intrusive investigative techniques against such a threat. This was proposed by the McDonald Commission. The Committee would see some merit in this suggestion if the definition of subversion were to remain as it is in the Bill. But the definition we suggest, which would apply only to covert unlawful acts or the use of violent means to destroy or overthrow the constitutionally established system, does not have the same breadth. In addition, the changes which we recommend to s. 22, concerning warrants, would further protect non-threatening activity. Thus, intrusive techniques could be used without a substantial risk of unduly interfering with legitimate activities.

43 One element of section 14 remains to be discussed. That is subsection (2) which states that:

> Nothing in this Act restricts the Service from remaining informed about the political, economic and social environment within Canada and matters affecting that environment.

This subsection was included, it appears, out of an abundance of caution — to prevent the argument being made that the CSIS could not go about collecting information from open, public sources without specific permission. The Committee feels that this fear is groundless, and that the functioning of the agency would not be hindered if the subsection were to be deleted entirely. There is nothing to prevent CSIS employees from becoming familiar with political, social and economic affairs in the public domain. Indeed, in order to provide cogent analysis of intelligence to the government this will be a necessity. But to include unnecessary words in a statute is to court mischief. An example of this is provided by a conjoint reading of ss. 14(2) and 22(1) of the Bill.[5] On a literal reading, the CSIS could request a warrant for the use of an intrusive investigative technique for the purpose of "remaining informed" about economic matters. The Committee doubts that such a reading was intended, and, indeed, officials who testified before the Committee indicated that it was not, and that s. 14 should have been specifically excepted from s. 22. Yet it is a possible reading of those sections.

44 In summary, the Committee submits that the changes that we recommend to the primary function and mandate would sharpen the focus of the agency's activities and serve to better protect legitimate social and political activity while, at the same time, keep the government informed as to genuine threats to the security of Canada.

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[5] Section 22, discussed in greater detail below, governs the issuance of warrants for the use of certain investigative techniques.

b) Security assessments

45 The provision of security assessments and advice relating to the security of Canada would be functions assigned to the CSIS by ss. 15-17 of Bill C-157. These are what might be termed "secondary" functions of the agency. But the CSIS would be the logical entity to perform such duties, which are necessary for the proper and secure operation of government institutions. The Committee is, on the whole, satisfied with the scope and content of these sections, subject to a few qualifications.

46 The Committee notes that no criteria for the performance of security assessments are provided in the Bill. Thus, Cabinet Directive 35 (which was made public by the McDonald Commission in 1978) would in all likelihood continue to govern assessments of loyalty and reliability of government employees. Assessments would not be limited, of course, to the criteria of threats to the security of Canada.

47 We find this to be entirely appropriate. But we would urge one adjustment. That is that Cabinet Directive 35, any amendments thereto, or any replacement of it should be transmitted to the Security Intelligence Review Committee (SIRC) which would be established under the proposed Act. The SIRC would review such material, and be in a position to report its opinion to the government as to the appropriateness or necessity of those assessment criteria. This would ensure that the assessment process comes under external scrutiny. Security assessment standards should also be made public. There is no reason why such matters should not be openly known and debated. (It should also be noted that the SIRC would have a further role in hearing complaints from individuals concerning security assessments. This is discussed below).

48 Three other matters should be dealt with. First, s. 15(2) would allow the CSIS to conclude agreements with, *inter alia*, any police force in Canada to provide such forces with security assessments.[6] The Committee

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[6] Section 15 reads as follows:

15.(1) The Service may provide security assessments to departments of the Government of Canada.

(2) The Service may, with the approval of the Minister, enter into an arrangement with the government of a province or any department thereof or any police force in Canada authorizing the Service to provide the government, department or police force with security assessments.

(3) The Service may, with the approval of the Minister after consultation by the Minister with the Secretary of State for External Affairs, enter into an arrangement with the government of a foreign state or an institution thereof authorizing the Service to provide the government, institution or organization with security assessments.

believes that it would be preferable if the agency entered into such agreements only after having first informed the relevant provincial government. Second, s. 15(3) might allow for the transmission and retransmission of security data relating to Canadians or Canadian residents to foreign states or institutions with whom an agreement has been concluded. Because of the consequences which the transmission of such data may have on the individuals concerned, the Committee feels that such arrangements should only be entered into under ministerial certification, and should be monitored by the SIRC to ensure that the issue is being dealt with properly. Further, all such agreements should also be transmitted to the SIRC. Finally, section 17 would allow the agency to "conduct such investigations as it considers appropriate" for the purpose of providing security assessments. It is important in this regard that s. 22 would not allow the use of intrusive investigative techniques in security assessments.

c) *The collection of information from foreign states and persons concerning defence and international affairs*

49 The third function of the CSIS under Bill C-157 would be to assist in the collection of what has been termed "foreign" intelligence, to distinguish it from security intelligence. Under s. 18, the CSIS would be empowered to assist in collecting information or intelligence in relation to "the defence of Canada or the conduct of the international affairs of Canada" concerning the capabilities, intentions or activities of foreign states or persons other than Canadian citizens, permanent residents, and Canadian corporations.

50 According to the Minister of State for External Relations, the collection of foreign intelligence is a well-established function of the Departments of National Defence and External Affairs. It includes such things as the collection of intelligence by the Defence department on the armed forces and war potential of foreign states, and "signals intelligence" — information gathered about foreign countries by intercepting and studying their radio, radar and other electronic transmissions — collected by the Communications Security Establishment. It also includes information gathered by the Bureau of Intelligence Analysis and Security, and the Bureau of Economic Intelligence of the Department of External Affairs which generally advise the government on economic, political, social, and military affairs relevant to Canada's multilateral and bilateral relations.

51 According to the Minister, section 18 is intended to provide necessary support for the collection of foreign intelligence in Canada. At present, the government has inadequate means in this area. Section 18 would fill that gap, allowing the CSIS to assist the relevant government departments. What would distinguish the agency's role in this area from that with respect to security intelligence would be the fact that only for-

eign nationals could be targeted, and the fact that the agency would only act at the request of a minister of the Crown.

52 The Committee acknowledges the continued need for foreign intelligence, and rejects any suggestion that its collection is not of importance to Canada's interests. It also cannot agree that section 18 is the first step in the creation of a security intelligence service that will act abroad. As noted above, this form of intelligence collection has been in existence for some time. In addition, section 18 specifically restricts the agency to collection of information "within Canada". Another criticism of section 18 is that, although it purports to restrict intelligence gathering to information about foreign nationals or states, nothing in the section prevents the targeting of Canadians who have knowledge or expertise about such foreign interests. The Committee feels that this criticism may have substance, and that the section should be amended to make it completely clear that the targeting of Canadians or permanent residents is forbidden.

53 While the Committee is of the opinion that facilitating the collection of foreign intelligence by proper authorities is an appropriate function of the CSIS, it also believes that that function should be much more closely controlled and monitored. Further, political responsibility for the collection of foreign intelligence should be clear.

54 To this end, the Committee makes the following proposals. First, the CSIS should not only assist in the collection of such intelligence — it should have a monopoly on all operational work. This would ensure that all such activity comes within the régime of review and accountability which will accompany the CSIS. Second, CSIS operations (including the use of intrusive techniques) should only be activated under s. 18 where the relevant minister seeking the information — be he (or she) the Minister of National Defence or the Secretary of State for External Affairs — certifies the requirement for such information and delivers it to the Solicitor General who will also certify it, before directing it to the CSIS.

55 The CSIS operational monopoly and the requirement for ministerial certificates would decrease the possibility of s. 18 being used to avoid the strictures on surveillance of Canadians. The agency would not be able to initiate intelligence gathering under s. 18 *ab initio*; it would first have to receive a request certified by two ministers of the Crown. In particular, the "monopoly" aspect of this procedure would ensure that the Security Intelligence Review Committee would consider the conduct of such operations, and attempt to verify their propriety. In addition, if the agency proposed the use of an intrusive investigative technique under s. 18 it would have to obtain a judicial warrant pursuant to s. 22.

2. The powers and immunities of the CSIS and its employees

a) Intrusive investigation techniques and judicial control of their use

56 The phrase "intrusive investigative techniques" has reference to a group of extraordinary powers which would be given to CSIS employees, by warrant, pursuant to s. 22 of Bill C-157. Section 22(1) refers to warrants allowing persons "to intercept any communication or obtain any information, record, document or thing".[7] Employees in possession of such warrants would also be empowered to enter any place or open or obtain access to any thing; to search for and remove or copy any record or thing; and to install, maintain or remove any thing. Thus, the CSIS would be able to engage in such things as electronic surveillance, wiretapping, surreptitious entry and mail-opening, and would be able to obtain a warrant allowing them access to personal information in the possession of the government.

57 Section 22 would give the CSIS very significant powers. Some witnesses who have appeared before the Committee have contended that there is no need for the agency to have such a broad expanse of extraordinary powers. We do not agree. A security intelligence agency does need to have access to a wide variety of investigative techniques. While the utility of any given technique varies with circumstances, to absolutely deny one or other to the agency would be to unreasonably restrict its operations. The Committee is quite aware of the dangers inherent in allowing such powers to be given to anyone. But we take the approach that the proper way to avoid abuse is to restrict the availability of a warrant to specific and exigent circumstances, rather than deny the use of a particular power outright. Thus mail-opening, for example, will be available, but only in a

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[7] Section 22(1) of the Bill:

> 22. (1) Notwithstanding any other law, on application in writing to a judge for a warrant made by the Director or any employee designated by the Minister for the purpose, the judge may, if satisfied by evidence on oath that a warrant is required to enable the Service to perform its duties and functions under this Act, other than sections 15, 16 and 17, issue a warrant authorizing the persons to whom the warrant is directed to intercept any communication or obtain any information, record, document or thing and, for that purpose, authorizing those persons:
>
> (a) to enter any place or open to obtain access to any thing;
>
> (b) to search for, remove or return, or examine, take extracts from or make copies of or record in any other manner the information, record, document or thing; or
>
> (c) to install, maintain or remove any thing.

proper case where the agency meets a strict set of conditions, and where the prescribed mandate and functions of the agency allow it.

58 This is not to say, however, that the Committee is satisfied with s. 22. In our opinion, that section falls considerably short of providing a sufficiently rigorous set of controls on warrants. The first difficulty is the standard expressed in s. 22(1) governing the issuance of a warrant:

> ... the judge may, if satisfied by evidence on oath that a warrant is required to enable the Service to perform its duties and functions under this act ... issue a warrant.

This standard is unreasonably low. It barely allows for the application of judicial consideration and, when read in conjunction with ss. 14 and 2 of of the Bill, would likely permit warrants to be issued too easily.

59 The Committee recommends instead the incorporation of provisions similar to those dealing with authorizations to engage in electronic surveillance in Part IV.1 of the *Criminal Code*, and in the warrant procedures recommended by the McDonald Commission. Thus, the judge would have to be satisfied:

i) That other investigative procedures have been tried and have failed; or
ii) That other investigative procedures are unlikely to succeed; or
iii) That the urgency of the matter is such that it would be impractical to carry out the investigation of the matter using only other investigative procedures; or
iv) That without the use of the procedure it is likely that intelligence of importance in regard to the activity in issue will remain unavailable.[8]

60 In addition to fulfilling one of these conditions, an application should also have to satisfy a judge that the gravity of the threat to security, or the need to collect foreign intelligence, is such as to justify the intrusion into the privacy of those affected by the warrant. Thus, an application for a warrant would have to meet three criteria: that it relates to a duty or function of the CSIS (except security assessments); that it comes within one of the four conditions set out above; and that the intrusion on privacy is outweighed by the gravity of the threat, or by the importance of the intelligence sought. In our opinion these criteria set an appropriate standard.

61 The Committee also recommends that the statute itself contain a fixed limit on the duration of warrants, rather than leaving that matter up

[8] The first three conditions are taken from s. 178.13(1)(b) of the *Criminal Code*; the fourth from Recommendation 21 of the Second Report of the McDonald Commission.

to the judge as is done in s. 22(2)(e). The Committee has closely considered whether the agency should have to justify to the issuing judge both not informing the target of a warrant, and not returning things seized. It has concluded that this should not be the general rule, but notes that, pursuant to s. 22(2)(f), the judge does have the power to include such conditions in a warrant.

62 The Committee agrees that the Federal Court is the appropriate forum in which to have the warrant process. The Chief Justice should, however, pursuant to s. 15 of the *Federal Court Act*, designate a panel of judges who will deal with warrant applications. Further, to prevent "judge-shopping", every application for a warrant should have to include details of previous applications with respect to the same target or matter.

63 Some witnesses have suggested that civil liberties might best be protected in this context if a distinction was made between targets who are Canadians or permanent residents and targets who are foreign nationals. Much more stringent conditions would apply to targeting of Canadians. The rationale for such a distinction is that foreign nationals are more likely to be involved in security-threatening activity, and that Canadians who are so involved are much more amenable to less intrusive techniques or to the ordinary processes of the criminal law. The Committee found this to be an interesting proposal, but chooses not to adopt it. The Committee entertains some doubt as to the legal propriety of such a distinction between citizens and non-citizens. It is generally undesirable. Further, it would prove to be a difficult distinction to make in practice.

64 Another significant proposal is that the warrant process be extended to cover the use of undercover agents, informers and infiltrators by the agency. This suggestion was forcefully put to us by Mr. Jean Keable, who recommended that both police and security forces submit their undercover operations to the warrant system in his report to the Government of Quebec on police operations in 1981. Again, the Committee cannot recommend such a step, although it acknowledges the force of some of the arguments in favour of it. The Committee agrees with the McDonald Commission that the appropriate way to deal with this issue is for the responsible minister to issue detailed guidelines for the conduct of undercover operations and the running of sources. Those guidelines would set out the scope of permissible conduct in such operations. Such guidelines would be referred to the Security Intelligence Review Committee for consideration and review. Their review would also, it is hoped, lead to appropriate public discussion of these matters.

65 A view commonly expressed before the Committee was that, even if improved, the warrant process under the Bill would be little more than an exercise in formalism — that the court would "rubber-stamp" applications for the use of intrusive investigative techniques in much the same manner (it is alleged) that the criminal courts deal with applications for search warrants. The Committee cannot, and does not wish, to express its opinion of this argument. It may contain an element of truth. But the rate of success of warrant applications may also be the result of the fact that recourse would be had to such investigative techniques where only the system of controls ensures that their use is, in fact, necessary. In this context, we note that the number of warrants issued by the Solicitor General under s. 16 of the *Official Secrets Act* (which would be replaced by s. 22 of the Bill) has not been particularly high.

66 It should be noted that the bringing of a judicial consideration to bear on warrant applications is not the only benefit which would flow from the introduction of the warrant process. It would also have the salutary effect of bringing into existence a formal record of the use of intrusive investigative techniques, something which would assist the review committee to assess the effectiveness and propriety of agency operations. Further, the necessity of having in possession a warrant would conclusively settle the issue of legality of unwarranted investigative intrusions.

67 In closing the discussion of this area, it should be noted that some of the modifications suggested herein to the warrant process would, according to officials who appeared before the Committee, have been included in regulations promulgated pursuant to section 26(b) of the Bill. Even if such was the case, and one assumes that those regulations would have been made public, the Committee believes that the changes it recommends should be incorporated into the statute itself.

b) The protection of CSIS employees

68 Certainly the most controversial provision in Bill C-157 is section 21. It states that the Director of the CSIS and its employees

> are justified in taking such reasonable actions as are reasonably necessary to enable them to perform the duties and functions of the Service under this Act.

Subsection (2) stipulates that the director shall report to the Solicitor General and federal Attorney General the fact that a CSIS employee has acted unlawfully in the purported performance of his or her duties, where in the Director's opinion such unlawful conduct has taken place. Section 21 has been severely criticized by witnesses, and in submissions to the

Committee, as giving to the agency a licence to break the law whenever agency employees themselves feel it is necessary.

69 The Committee has serious misgivings about section 21. But we wish to make clear at the outset that we reject some of the extravagant and unreasonable criticisms that have been made of it. First, the Committee is satisfied that section 21 could not justify the commission of serious wrongdoing. We believe that the phrases "reasonable actions" and "reasonably necessary" would be interpreted as stating an objective test. That is to say, an employee would be held to an objective standard by a court as to whether his action was reasonable. His subjective belief would not be the decisive factor. At most, s. 21 would go slightly beyond the common law defence of necessity. We do not believe that any court would interpret section 21 in such a way as to allow anything more than minor infractions to go unpunished. There is, indeed, a strong argument that s. 21(1) embodies a codification of the common law powers of peace officers.

70 These issues aside, our concern about section 21 derives from other sources. We would expect that any employee of a security intelligence agency, when confronted with a situation in which he might act illegally in the performance of his or her duties and functions, would be predisposed to act legally. There may, of course, be situations in which such an employee will have to act in a manner which is, *prima facie* illegal, but is not likely to be regarded by the courts as of serious consequence. The archetypical example is where an agent would break traffic laws to continue surveillance of a target.

71 But in cases where the reasonableness of an employee's acts are not so clear, where what would be involved is a more serious illegality, a provision like s. 21 could give the wrong signal to agency employees. It might lead such an employee to conclude that since he considers a course of action to be reasonable, he may do it. Thus, the defect which the Committee perceives in s. 21 is not that it would finally exonerate employees for blatantly serious illegal conduct, but that it might influence employees, in critical situations, to proceed illegally when they might otherwise act with full propriety. This is also of importance with respect to subsection (2), which relies on the Director to report illegality to the Attorney General based on his opinion as to its legality. A Director, in a close case, might find in s. 21(1) a justification for not reporting conduct which should be reported.

72 The Committee accordingly recommends that section 21(1) be replaced with a provision which deems agency employees, when acting in the performance of their duties and functions under the Act, to be peace

officers for the purpose of section 25 of the *Criminal Code*, and which also allows agency employees in such situations to avail themselves of whatever protections peace officers have at common law. Such a provision would provide protection to employees for acts done on reasonable and probable grounds where the duties they are performing are required or otherwise authorized.

73 In any event, the protection which the Committee envisages as being given to agency employees by such a provision would not authorize serious illegality. It would, in proper cases, justify technical breaches of the law or violation of minor criminal or regulatory laws. The McDonald Commission recommended a concerted effort by the federal government to convince the provinces to amend their laws to give police and security forces exemptions in several areas. While this is a laudable approach, it may be impossible to achieve. Giving agency employees the protection we recommend should have the effect, on the whole, of what the McDonald Commission proposed.

74 As stated above, the Committee believes that there should be no legalization in respect of more serious offences. The line between serious and minor offences may be difficult to draw. But in cases close to the line we feel that employees of the CSIS should rely on prosecutorial discretion and sentencing practices of the courts to provide flexibility in the application of the law. Where an employee has committed a relatively serious offence, he should not be able to avoid the consequences. But he should be able to rely on whatever mitigation flows from the fact that he committed the illegality in the course of his duties, to the same extent as a peace officer could.

75 With respect to s. 21(2), the Committee has considered whether that provision should compel the federal Attorney General to forward reports of CSIS misconduct to his relevant provincial counterparts. This would not, in our opinion, be appropriate in all cases. Where the federal law officer of the crown decides, for reasons related to the security of Canada, that it is not in the public interest to report the matter to a provincial attorney general, he should have to certify a document expressing his opinion. This document would be forwarded to the Security Intelligence Review Committee, which could consider and, if necessary, report on the matter. Where the federal Attorney General does transmit such information, he should also be able to lay down conditions as to its use. In any event, the Committee is aware that the Attorney General has traditionally been reluctant to withhold information from his provincial counterparts. The prospect of review of his decisions will re-inforce that reluctance.

c) Disclosure of identity of CSIS employees

76 Section 12 of Bill C-157 would make it an offence, punishable by up to five years' imprisonment, for any person to disclose any information from which the identity of CSIS employees engaged in covert operational activities, or persons who are or were confidential sources, could reasonably be inferred. The Committee agrees with much of the criticism that has been directed against this section. It is too extreme, and could have the effect of impeding freedom of expression. Further, it could make difficult the reporting of any CSIS wrongdoing.

77 The Committee was gratified to learn from officials who appeared before it that the government is also in agreement with some of these criticisms and plans to substantially redraft s. 12. We acknowledge that there is a need to protect covert employees and sources. One change that the Committee would suggest is that the section incorporate a stipulation that the disclosure be detrimental to the interests of Canada, and that the person disclosing it should have known this, or not have been reckless as to the possibility.

3. Management, control and responsibility for the CSIS

78 These are issues of vital importance to the establishment of the CSIS. One of the reasons for the creation of a new civilian security intelligence agency is the need for effective management and control, and distinct political responsibility. Defects in these matters could render nugatory all the other proposed changes in the Bill, and potentially return us to the state of affairs which led to the creation of the McDonald Commission.

79 On these matters, the Committee finds itself in agreement with much that is found in Bill C-157. It agrees with the division of responsibilities outlined in section 6(2):

> The Service is under the control and management of the Director, but the Director shall comply with general directions issued by the Minister under subsection (1).

Pursuant to section 6(1), the Minister would issue these "general directions", setting out the broad policy objectives of the Service.

80 The Committee also agrees with the tenor of s. 7, which would codify the crucial role of the Deputy Solicitor General in keeping informed of agency operations and providing advice to the Minister. We view the formalization of the deputy's role as a positive step, which would ensure that the Director of the CSIS does not acquire the *de facto* status of deputy to the Minister in matters of security. The Minister would be able

to rely on his deputy for advice independent of the official who manages the agency.

81 We have serious misgivings, however, about the contents of s. 6(3). This is the so-called "override" provision, which would allow the decision of the Director to prevail:

> (a) on the question of whether the Service should collect or disclose information or intelligence in relation to a particular person or group of persons; or
>
> (b) as to the specific information, intelligence or advice that should be given by the Service to the Government of Canada or any department thereof, a Minister of the Crown, the government of a province or any department thereof or any other authority to which the Service is authorized by or under the Act to give information, intelligence or advice.

On these matters, the Minister would not have the power to override the decision of the Director.

82 The Committee agrees with much of the criticism that has been made of s. 6(3). It would give too much unchecked power to the Director, the only available sanction against whom would be dismissal. It would also insulate the Minister to too large a degree from operational matters. Affixing political responsibility for acts of the CSIS would be extremely difficult and thus effective control would be proportionately less likely. The ostensible rationale for s. 6(3) is that it is necessary to prevent partisan political abuse of the CSIS. But of all the misdeeds and abuses about which the McDonald Commission wrote, partisan use of the RCMP Security Service was not one. That report was quite critical of several politicians, but there was no evidence than any person used the Security Service for personal or political ends. In addition, no witness who appeared before the Committee expressed concern about abuse of the CSIS by its political masters. This is not to say, of course, that there is no potential for such abuse. But the Committee feels that effective review of agency operations would soon bring such activity to light, and that Parliament could be relied on to fully deal with such matters. In any event, the danger of political abuse is far outweighed by the need for effective control and responsibility.

83 Accordingly, the Committee believes that s. 6(3) should be deleted, or at least altered to give the Minister an override. The relationship between the Minister and the Director should be very much like the relationship between other ministers of the crown and independent agencies for which the ministry has responsibility. On the whole, the Director should be left to manage the CSIS, as he sees fit, subject to the law and a system of controls and review. But nothing except good judgment and

political scruples should prevent the Minister from intervening on operational matters. The agency should be an "open book" to the Minister, who will consequently have full political responsibility for matters about which he reasonably can be expected to have knowledge.

84 This recommendation should not be taken as proposing that the Minister play a large role in operations. It has been suggested to the Committee that responsibility for the CSIS be given to a new Minister, who would deal exclusively with security. This would be a mistake. To have a minister whose only concern is a security intelligence agency would almost invite well-meaning but inappropriate political interference. It might have the effect of neutralizing the Director. We believe that it should be the Director who performs most of the functions in relation to control of the agency. Ministerial intervention would be rare. The Minister would be mostly concerned with larger policy considerations. To ensure that such a state of affairs would exist, it has been suggested that ministerial interventions should have to be formally submitted, in writing, to the Director and also transmitted to the Security Intelligence Review Committee. The Committee sees some merit in this suggestion.

85 It has been suggested that legislation dealing with a security intelligence agency should contain explicit reference to the role of the Prime Minister. While the Committee agrees that the Prime Minister, as the person who must accept ultimate responsibility for government policy and operations, plays a very important role in this field, we do not believe that codification of that role is necessary or desirable. It is preferable to leave the question of the relationship between the Prime Minister and the Solicitor General (or any other minister) to be dealt with within the context of our system of cabinet government. Constitutional custom, parliamentary tradition and mere necessity ensure that the Primer Minister has both the ability and motivation to remain informed in this area. There is a long-standing usage that deputy heads of departments, of which the Director would be the equivalent, have access to the Prime Minister in exceptional circumstances. To attempt to reduce these matters to statutory form would introduce an unnecessary inflexibility into the system.

86 Beyond these foregoing issues of control and responsibility, the Committee finds the other sections of the Bill dealing with the appointment, term of office and remuneration of the Director to be acceptable.

4. The monitoring and review of CSIS operations

87 The monitoring and review of CSIS operations are the final two elements of the proposed new security intelligence régime. They are of

great importance. Through these mechanisms, it should be possible to ensure that the other elements of the agency are operating as intended. They are vital to maintaining both the effectiveness and propriety of agency activities.

88 Bill C-157 would establish two institutions: the office of the Inspector General and the Security Intelligence Review Committee. There is no analogue of these institutions in the existing security intelligence establishment. The Committee wholeheartedly approves of their inclusion in the Bill. Subject to a few proposed modifications and additions to some sections relating to them, the Committee believes that they are among the most positive aspects of the proposed legislation.

a) The Inspector General

89 The Inspector General is dealt with in ss. 28 and 29 of the Bill. By virtue of section 28(2), the Inspector General, who would be responsible to the Deputy Solicitor General, is to:

> review the operational activities of the Service and ... submit certificates pursuant to subsection 29(2).

Under s. 29(2), these certificates are documents which are submitted to the Minister giving the Inspector General's opinion of whether the agency has done unauthorized, unreasonable or unnecessary acts in its operations. The Inspector General bases his opinion on a report which is furnished by the Director to the Minister, and presumably also employs the knowledge gained from his ongoing review. These certificates are also forwarded to the Security Intelligence Review Committee.

90 The obvious intent of these provisions is that the Inspector General should provide, for the political masters of the agency, ongoing information as to its functioning. If the Solicitor General is to be politically responsible he must know what is going on in the agency, through his deputy. The Inspector General will be the ministry's "eyes and ears" on the Service. He will very much be the "minister's man", in order to maintain an appropriate degree of ministerial responsibility, and is not to be regarded as a functionary of the CSIS.

91 The Committee is concerned that this monitoring role is not clearly expressed in s. 28. That section should be amended to make it clear that the Inspector General is not to be limited to after-the-fact review of operations, but is to have the function of ensuring that existing policies are being observed.

92 One other aspect of the Inspector General's role troubles us. Section 28(3) allows the Inspector General very broad access to information under the control of the agency, and also allows him to require reports and explanations from the Director on operational matters. Subsection (4), however, allows confidences of the Queen's Privy Council for Canada (i.e. cabinet documents) to be withheld. This should not be the case. If any cabinet documents relating to operations are in the control of the CSIS, the Inspector General should have access to them.

b) The Security Intelligence Review Committee (SIRC)

93 The SIRC would be the final element in the balance between mandate and powers on the one hand, and controls and review on the other. It would perform the crucial review function, seeking to ensure that the whole superstructure set up by the legislation operates within the bounds of the law. Throughout this report we have mentioned many matters which we believe should be referred to the SIRC, over and above its functions as set out in s. 34. The Committee takes no issue with that list of functions. It includes the general review of the performance by the service of its duties and functions along with review of the Inspector General's certificates and the Minister's general directions under s. 6(1) and agreements made under ss. 15 and 19; the direction of specific reviews by the Inspector General or its own staff of questionable service activities under s. 36; investigations in relation to complaints made concerning CSIS activities and denials, or the consequences of, security assessments; and dealing with reports made under the *Citizenship, Immigration* and *Canadian Human Rights* Acts dealing with the denial of rights or privileges based on security considerations.

94 To this list of functions, the Committee would add:

i) The monitoring of raw security data given to foreign governments;
ii) The review of Cabinet Directive 35 or any other guidelines used in security assessments;
iii) The review of decisions by the federal Attorney General not to transmit information concerning illegal activities for national security reasons;
iv) The review of regulations promulgated governing the warrant process;
v) The review of certificates issued under s. 18 to collect foreign intelligence.
vi) The review of any guidelines issued by the Solicitor General covering informers and infiltrators.
vii) The compilation and analysis of statistical data on CSIS operations.

This list is, of course, not exhaustive. Other matters will be added by the SIRC in the performance of its functions under s. 34 (a), as necessary.

95 In order to perform this sizable array of functions, it may be necessary to expand the size of the SIRC. We would suggest that five members be appointed, and that a quorum of three could perform official functions. The Committee has heard some criticism as to the composition of the SIRC, namely privy councillors no longer sitting in Parliament. We find the choice of privy councillors to be entirely appropriate. Such persons would have both political experience and the prestige of their office to assist them in their tasks. We would not, however, object to expanding the list of possible candidates who might be made privy councillors for this purpose. We would be opposed to allowing sitting politicians to serve on the SIRC. One interesting suggestion to be explored has been that a fixed number of members should be chosen from a slate prepared by the provincial attorneys general.

96 The Committee would like to stress, at this point, the vital role which the SIRC would play in the functioning of the security intelligence system. The extraordinary powers of the agency under the Bill must be balanced by a review body with broad powers of its own to enquire into and investigate CSIS operations.

97 One role, in particular, which we feel that the SIRC should have is that of ensuring adequate debate, where necessary, in the area of security. We would hope that the SIRC would report in such a way as to bring into focus, in a general fashion, particular issues of policy and, where necessary, impropriety in the security field for Parliament and the public at large.

98 The Committee approves of the method of appointment outlined in s. 30. Consultation with other political parties in the choice of members should ensure that the credibility of the SIRC would be maintained. As with the Inspector General, the SIRC should have access to all cabinet documents in the possession of the CSIS. Finally, the Committee believes that the staffing of the SIRC is a very important matter and should be done with care to ensure that it is a small but effective body.

c) A Special Parliamentary Committee

99 It has been submitted to the Committee that the operations of the CSIS should be subject to the scrutiny of a special parliamentary committee which would have much the same powers as the SIRC. The McDonald Commission also recommended the establishment of such a committee.

100 We agree that, ideally, such a committee could be of benefit. But there are many practical difficulties involved. A parliamentary committee would likely duplicate much of the efforts of the SIRC. Further, parliamentary committees are notoriously subject to vagaries of time, changes in membership and overwork. There is also the problem of maintaining the security of information. This has reference in part to the possibility of partisan motivations in some members; but it also refers to the general question of whether that type of committee can maintain the requisite confidentiality by reason of the nature of its proceedings. In view of these considerations, the Committee believes that it would not be advisable to establish a parliamentary committee with special access to CSIS operations and information.

101 Under s. 48 of Bill C-157, however, the annual report of the SIRC must be laid before Parliament by the Minister. Under the present Standing Orders of the House of Commons, such a report is automatically referred to a standing committee. We would urge that the appropriate committee give priority to consideration of the SIRC report. Although such a committee would be relying on a report, and would not have original access to agency records, we expect that the quality and comprehensiveness of information which Parliament will receive about the operations of the security intelligence system will be greatly improved, thereby achieving some of the objectives of a special committee. This would also likely stimulate a useful public debate on these issues.

5. Other matters concerning the CSIS

102 By "other matters" we refer, in this part, to certain specific issues which were raised by some witnesses concerning labour relations and pension rights of CSIS employees. It was submitted that Bill C-157 would adversely affect the collective bargaining rights of certain employees who are now unionized within the Security Service, and that it would also unreasonably restrict dispute resolution and grievance procedures. With respect to pension rights, it was forcefully argued by representatives of some Security Service members that certain provisions of the Bill would compel them to treat their transfer to the CSIS as an extension of their RCMP service, thereby depriving them of acquired pension rights. This was said to be discriminatory when compared with the treatment of others in the federal public service. We note that policy in this area of acquired pension rights and re-employment in the public service appears to be under review by the government.

103 The future effectiveness of both the CSIS and RCMP will depend, to a significant degree, on the manner in which the transition takes place.

It is thus vital to observe and respect the legitimate interests of employees of the Security Service. Another example of issues which could be addressed has to do with the right to rejoin the RCMP. As drafted, Bill C-157 allows those members of the RCMP Security Service (who become CSIS employees on proclamation of the legislation) the right to transfer back to the force. Such a right might be made available to other RCMP members who join the CSIS, but who at the time of joining, were not members of the Security Service.

104 We would urge that close consideration be given to matters such as these by any body charged with detailed study of any proposed legislation in this area, with a view to ensuring that employees of the new agency are not treated in a discriminatory fashion, and that only such changes as are necessary for the efficient functioning of the agency will be made to existing labour relations arrangements.

6. The *Security Offences Act* — Part IV of Bill C-157

105 The *Security Offences Act*, which is Part IV of Bill C-157, is functionally quite separate from the rest of the Bill. It has very little to do with the establishment or functioning of the CSIS. It deals with how those responsible for law enforcement are to deal with what has been compendiously referred to as "security offences". Those are offences arising out of conduct constituting a threat to the security of Canada within the meaning of that phrase as defined in s. 2 of the Bill, or offences the victim of which is an "internationally protected person" as defined in the *Criminal Code*. Sections 52, 53 and 54 purport to give to the Attorney General of Canada primary authority to prosecute security offences. No proceedings could be commenced without his consent, and he would have all the powers assigned to the Attorney General of a province in the *Criminal Code* in respect of proceedings taken against persons alleged to have committed security offences. Section 55 would give to RCMP the "primary responsibility" to perform duties assigned to peace officers in relation to the apprehension of the commission of security offences.

106 Part IV has, not suprisingly, aroused considerable concern among the provinces. The Committee heard the testimony of three provincial attorneys general, and received submissions from three others. Each was adamantly opposed to the proposals, and characterized them as a "power grab". We were also informed that all other provincial law officers of the Crown shared this view. The Attorney General of Canada on the other hand, contended that the federal government had full jurisdiction to act in this area, and that such changes were necessary to allow the government to

treat sensitive security-related criminal activity in a manner which would be conducive to the interests of Canada.

107 A recent decision of the Supreme Court of Canada appears to have settled the jurisdictional issue in this area. It can no longer be said that provincial competence over criminal prosecution is comprehensive and exclusive. But even if this is the case, and Part IV is within federal jurisdiction, the Committee is of the opinion that it is too broadly framed and that it should not so radically disrupt the traditional system of criminal prosecution by the provinces. It should not be necessary for provincial authorities to have federal consent to prosecute security offences. Instead, the federal Attorney General should be able to intervene by *fiat* and take over proceedings where issues of national security are involved in a criminal prosecution.

108 Although the federal police force should have "primary responsibility" to investigate security offences, it should also have a duty to consult with municipal and provincial police forces when exercising this jurisdiction. We believe that these changes would facilitate the federal interest without unnecessarily disturbing traditional methods of law enforcement.

CONCLUSION

109 The Committee believes that legislation dealing with Canada's security intelligence system is necessary, and that it should be enacted in the near future. The *status quo* is not acceptable. At the very least the legislation should contain: a defined mandate and statement of functions of the agency; judicial control of the use of intrusive investigative techniques; and a system of external monitoring and review of security operations. Bill C-157, revised as we recommend, could adequately deal with Canada's security requirements without unjustifiably infringing on individual rights. In this regard, we wish to acknowledge the many useful and helpful contributions we have received from the public which have assisted us considerably in our deliberations.

110 Some Committee members and witnesses have expressed concern with respect to the precision of the French version of the Bill, in particular with the name of the new agency. Since precision is a matter of particular importance in legislation of this kind, the Committee trusts that special care will be taken in its drafting.

111 One final matter should be dealt with. Because legislation in this area will be of such import, and will introduce into the security intelligence system several entirely new elements, we recommend that a parliamentary committee be empowered to conduct a thorough review of the operation of the legislation after a period, perhaps five years, of experience with it. Such a review would go a considerable way toward ensuring that the legislation is working as Parliament intends it to operate.

APPENDIX A

MEETINGS AND WITNESSES

Issue	Date	Witnesses
01	July 7 and 8, 1983	The Honourable Robert Phillip Kaplan, Solicitor General of Canada. **Department of the Solicitor General:** Mr. Fred E. Gibson, Q.C., Deputy Solicitor General; Mr. T. D'Arcy Finn, Q.C., Executive Director of the Security Intelligence Transitional Group; Mr. Archie Barr, Chief Superintendent, Policy Development of the Security Intelligence Transitional Group.
02	August 18, 1983	**Department of the Solicitor General:** Mr. T. D'Arcy Finn, Q.C., Executive Director of the Security Intelligence Transitional Group; Mr. Archie Barr, Chief Superintendent, Policy Development of the Security Intelligence Transitional Group.
03	August 19, 1983	The Honourable Robert Phillip Kaplan, Solicitor General of Canada. **Department of the Solicitor General:** Mr. Fred E. Gibson, Q.C., Deputy Solicitor General.
04	August 23, 1983	**Province of Ontario:** The Honourable Roy McMurtry, Q.C., Attorney General; Mr. Archie Campbell, Q.C., Deputy Attorney General.

Issue	Date	Witnesses
		Province of New Brunswick: The Honourable Fernand G. Dubé, Q.C., Minister of Justice and Attorney General; Mr. Barry Athey, Assistant Deputy Attorney General.
05	August 24, 1983	Mr. John Starnes.
		The Honourable Mark MacGuigan, Minister of Justice and Attorney General of Canada.
		Department of Justice: Mr. Roger Tassé, O.C., Q.C., Deputy Minister.
06	September 12, 1983	Professor Peter H. Russell, Department of Political Science, University of Toronto.
		Canadian Civil Liberties Association: Mr. A. Alan Borovoy, General Counsel; Professor Kenneth Swan, Chairman, National Board of Directors.
		Professor Martin L. Friedland, Faculty of Law, University of Toronto.
07	September 13, 1983	Mr. Philip B. Berger, M.D.
		Canadian Association of Chiefs of Police: Mr. Thomas G. Flanagan, S.C., Chairman, Law Amendments Committee and Deputy Chief, Ottawa Police Force; Mr. John W. Ackroyd, Chief of Police, Metropolitan Toronto; M[e] Guy Lafrance, Director, *Communauté urbaine de Montréal.*
		The Honourable Warren Allmand, P.C., M.P., Former Solicitor General of Canada.
08	September 14, 1983	Mr. John Sawatsky, Journalist.

Issue	Date	Witnesses
09	September 15, 1983	**Canadian Association of University Teachers:** Dr. Sarah J. Shorten, President; Dr. Donald Savage, Executive Secretary; Dr. V.W. Sim, Associate Executive Secretary. The Honourable Allan Lawrence, P.C., M.P., Former Solicitor General of Canada. **Centre for Conflict Studies, University of New Brunswick:** Dr. M.A.J. Tugwell, Director; Dr. David Charters, Deputy Director.
10	September 21, 1983	The Honourable Brian R. Smith, Q.C., Attorney General of British Columbia; Mr. Robin Bourne, Assistant Deputy Minister, Police Services, Ministry of the Attorney General of British Columbia. **British Columbia Law Union:** Mr. Craig Paterson, Barrister & Solicitor; Ms. Susan Polsky, Barrister & Solicitor; Mr. John Stanton, Barrister & Solicitor. **The Law Union of Ontario:** Mr. Paul D. Copeland, Barrister & Solicitor.
11	September 22, 1983	The Honourable Jean-Luc Pepin, Minister of State (External Affairs). **Department of External Affairs:** Mr. Marcel Massé, Under-Secretary for External Affairs. **The R.C.M.P. Veterans' Association:** Mr. A. Blake McIntosh, President; Mr. John Ewashko, Dominion Secretary; Mr. James Bilton, Chairman, Welfare Committee; Mr. Joe Borsa, Chairman, Membership;

Issue	Date	Witnesses
		Mr. Ivan Rolstone, Member, Ottawa Division.
12	September 27, 1983	**Canadian Rights and Liberties Association:** Dr. Donald Whiteside, President.
		Canadian Bar Association: Mr. Robert M. McKercher, Q.C., President; Mr. Victor Paisley, Chairman of CBA Special Committee on Bill C-157; Mr. Donald G. Bishop, Member; Me Michel Côté, Q.C., Member.
		The R.C.M.P. Security Service: Sgt. Yvon R. Gingras; Mr. Raphael H. Schachter, Barrister & Solicitor; Mr. Victor Carbonneau, Legal Counsel; Mr. Jack Waissman, Barrister & Solicitor.
13	September 28, 1983	**Coalition for Gay Rights in Ontario:** Mr. Denis Leblanc, Member; Ms. Barbara McIntosh, Member.
		British Columbia Civil Liberties Association: Professor Robert S. Ratner, Director; Mr. John Russell.
		Criminal Lawyers' Association: Mr. Ronald G. Thomas, Q.C., President; Mr. Alan D. Gold, Barrister & Solicitor.
14	September 29, 1983	Mr. R.H. Simmonds, Commissioner of Royal Canadian Mounted Police.
		Me Jean Keable.
		Parti québécois: Mr. Sylvain Simard, *vice-président et président du Conseil exécutif national;* Me André J. Bélanger, *vice-président de la région Montréal — Ville-Marie;*

Issue	Date	Witnesses
		Me Alain Mongeau, *président de la Commission juridique nationale*; Me Pierre Cloutier, *président du Comité national de la justice.*
15	October 4, 1983	**Union of Solicitor General Employees - Public Service Alliance of Canada:** Mr. Daryl Bean, Vice-President; Mr. Wayne Crawford, Executive Secretary. **Canadian Human Rights Commission:** Mr. Gordon Fairweather, Chief Commissioner, Mrs. Linda Poirier, Director, Research and Policy. Mr. Robert Bryce.
16	October 5, 1983	**Barreau du Québec:** M. le bâtonnier Louis LeBel; Me André Tremblay, Chairman, Committee on Bill C-157; Me Suzanne Vadboncoeur, Secretary, Committee on Bill C-157. **Canadian Jewish Congress:** Mr. Milton E. Harris, President; Mr. Frank Schlesinger, Vice-President; Ms. Elizabeth Wolfe, Counsel; Professor Frederick Zemans, Chairman, Law and Social Action Committee; Professor Joseph Magnet, Counsel.
17	October 11, 1983	Mr. Gordon Robertson, President, Institute for Research on Public Policy.
18	October 13, 1983	Me Jean Keable.

APPENDIX B

BRIEFS RECEIVED FROM THE PUBLIC

1. Professor Jennie Abell
   Prince Albert, Saskatchewan
2. The Advocates' Society
   Toronto, Ontario
3. The Honourable Marc-André Bédard
   Minister of Justice
   Government of Québec
   Ste-Foy, Québec
4. Canadian Labour Congress
   Ottawa, Ontario
5. Canadian Union of Public Employees
   Ottawa, Ontario
6. Chief Statistician of Canada
   Statistics Canada
   Ottawa, Ontario
7. Mr. André Chrétien
   Shawinigan Sud, Québec
8. Citizens' Independent Review of Police Activities
   Toronto, Ontario
9. *Commission des droits de la personne du Québec*
   Montréal, Québec
10. Mr. Richard Gosse
    Deputy Minister of Justice
    and Deputy Attorney General
    Regina, Saskatchewan
11. The Honourable Harry W. How, Q.C.
    Attorney General of Nova Scotia
    Halifax, Nova Scotia
12. Human Rights Institute of Canada
    Ottawa, Ontario

13. Professor N. Parker-Jervis
Edmonton, Alberta

14. Dr. Peter Kirkby
Islington, Ontario

15. The Honourable J. Gary Lane
Minister of Justice and
Attorney General of Saskatchewan
Regina, Saskatchewan

16. Mr. W.R.C. Little
Meaford, Ontario

17. Mr. David Maguire
Montreal, Quebec

18. Mr. John H. Meier
Tsawwassen, B.C.

19. Mrs. Jennifer Moore
Calgary, Alberta

20. Mr. Gerald R. Nelson
Pitt Meadows, B.C.

21. Mr. Lance Orr
Etobicoke, Ontario

22. Mr. Glendon Trevor Peters
Saint John, New Brunswick

23. Mr. Adam Popescu
Winnipeg, Manitoba

24. Mr. Ken Rubin
Ottawa, Ontario

25. Ms. P. Thomson
Ottawa, Ontario

Respectfully submitted,

P.M. Pitfield,
Chairman.

MINUTES OF PROCEEDINGS

TUESDAY, October 18, 1983
(29)

The Special Committee of the Senate on the Canadian Security Intelligence Service met this day, *in camera*, at 11:19 a.m., the Chairman, the Honourable Senator Pitfield, presiding.

Members of the Committee present: The Honourable Senators Balfour, Buckwold, Godfrey, Kelly, Lapointe, Nurgitz, Olson, Pitfield, Riel and Riley. (10)

Present but not of the Committee: The Honourable Senator Frith.

In attendance: From the Research Branch, Library of Parliament: Messrs. Donald Macdonald and Philip Rosen, Research Officers.

Appearing:

The Honourable Robert Phillip Kaplan, Solicitor General of Canada.

The Committee, in compliance with its Order of Reference dated June 29, 1983, proceeded to consider the subject-matter of Bill C-157 intituled: "Canadian Security Intelligence Service Act."

On motion of Senator Lapointe, it was *agreed*,—"That this meeting be held *in camera*."

The Minister made a statement and answered questions.

On motion of Senator Nurgitz, it was *agreed*,—"That an extension of the deadline for submitting the Committee's report be requested."

At 1:01 p.m., the Committee adjourned to the call of the Chair.

Tuesday, October 25, 1983
(30)

The Special Committee of the Senate on the Canadian Security Intelligence Service met this day, *in camera*, at 3:12 p.m., the Chairman, the Honourable Senator Pitfield, presiding.

Members of the Committee present: The Honourable Senators Buckwold, Godfrey, Kelly, Lapointe, Nurgitz, Pitfield, Riel, Riley and Roblin.

Present but not of the Committee: The Honourable Senator Frith.

In attendance: From the Research Branch, Library of Parliament: Messrs. Donald Macdonald and Philip Rosen, Research Officers.

The Committee, in compliance with its Order of Reference dated June 29, 1983, proceeded to consider the subject-matter of Bill C-157 intituled: "Canadian Security Intelligence Service Act."

On motion of Senator Lapointe, it was *agreed*,—"That this meeting be held *in camera*."

Senator Nurgitz moved,—"That the sub-title of the draft report be as follows:

Delicate Balance: A Security Intelligence Service in a Democratic Society".

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

On motion of Senator Roblin, it was *agreed*,—"That the final draft of the report be adopted as revised."

Ordered:

"That the report be tabled in the Senate."

At 5:15 p.m., the Committee adjourned *sine die*.

ATTEST:

Erika Bruce
Timothy Ross Wilson
Clerks of the Committee