

SECTION XI
LAW AND PROCEDURE

1. P.C. 6444

Some months before the date of the Order in Council by which we were appointed, Order in Council P.C. 411 of February 5th, 1946, namely, on October 6th, 1945, Order in Council P.C. 6444 had been enacted by the Governor General in Council. This order recites that:—

It has been ascertained that agents of a Foreign Power have been engaged in a concerted effort to obtain from public officials and other persons in positions of trust, secret and confidential information, the disclosure of which might be inimical to the safety and interests of Canada and friendly Powers, and that secret and confidential information has been communicated, directly or indirectly, by certain persons to the agents of the aforesaid Foreign Power to the prejudice of the public safety or interests of Canada and of friendly Powers;

and that:—

It is deemed necessary for the security, defence, peace, order and welfare of Canada that the Acting Prime Minister or the Minister of Justice should be authorized to order the detention of such persons in such places and under such conditions as the Acting Prime Minister or the Minister of Justice may from time to time determine.

The Order thereupon proceeds to enact as follows:—

1. The Acting Prime Minister or the Minister of Justice, if satisfied that with a view to preventing any particular person from communicating secret and confidential information to an agent of a Foreign Power or otherwise acting in any manner prejudicial to the public safety or the safety of the State it is necessary so to do, may make an Order that any such person be interrogated and/or detained in such place and under such conditions as he may from time to time determine.

2. Any person shall, while detained by virtue of an order made under this Order, be deemed to be in legal custody.
3. The Minister of Justice if satisfied that the detention of any person so detained is no longer necessary for the public safety or the safety of the State may make an Order releasing him.
4. The Acting Prime Minister or the Minister of Justice may authorize any member of the Royal Canadian Mounted Police to enter any premises occupied or used by a person whose detention is ordered at any time or times and to search the premises and every person found thereon and to seize any article found on the premises or any such person which the said member of the Royal Canadian Mounted Police has reasonable grounds for believing to be evidence that secret and confidential information has been communicated to agents of a Foreign Power.

It is to be observed that this Order lays down as the one condition precedent for the exercise by either of the Ministers referred to of the authority conferred by the Order, that such Minister shall be satisfied that it is necessary to detain any person "with a view to *preventing* such person from communicating secret and confidential information . . . or otherwise *acting* in any manner prejudicial to the public safety or safety of the State". The exercise of the authority conferred by this Order will be seen to be purely *preventive* in its nature and not *punitive* with respect to past conduct. It is not concerned with and leaves untouched the question of accountability for such conduct under the general law.

On the 14th of February, 1946, Commission Counsel, one of whom had, prior to our appointment, been advising the Government in connection with the matter for sometime, stated to us that they had advised the Minister of Justice that, in their opinion, the circumstances were such that he should exercise the power conferred upon him by Order in Council P.C. 6444, and they advised us the Minister desired our opinion.

In considering the situation thus arising, it may, in the first place, be pointed out that the disclosure of secret or confidential information to a foreign power is a subject which is not regarded either here or in England as on a level with what may be called ordinary domestic offences. Parlia-

ment has seen fit to mark out this subject in *The Official Secrets Act, 1939*, which is not limited to the existence of war, as one in which the safety and interests of the State are to be regarded as in danger because of which special provisions are deemed necessary. Some of the provisions of the statute, which is modelled upon the British Acts of 1911 and 1920 (1-2 Geo. V., cap. 28, and 10-11 Geo. V., cap. 75), illustrate what we have just said and should be referred to. By sub-section (1) of section (3) it is enacted that:—

If any person for any purpose prejudicial to the safety or interests of the State, . . .

- (b) **makes any sketch, plan, model or note which is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power; or** *
- (c) **obtains, collects, records, or publishes, or communicates to any other person any secret official code word, or pass word, or any sketch, plan, model, article, or note or other document of information which is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power,** *

such person commits an offence under the Statute.

The people of Canada in self-protection have, through Parliament, also enacted strong presumptions against persons charged under *The Official Secrets Act* shifting the burden of proof from the State to the accused, and in such cases it is for the person, against whom an offence under the statute is alleged, to establish his innocence to the reasonable satisfaction of the tribunal charged with the responsibility of deciding. We refer to the following provisions:—

Sec. 3(2) On a prosecution under this section, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case, or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; . . . *

*Our underlines.

(3) In any proceedings against a person for an offence under this section, the fact that he has been in communication with, or attempted to communicate with, an agent of a foreign power, whether within or without Canada, shall be evidence that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power. *

(4) For the purpose of this section, but without prejudice to the generality of the foregoing provision:—

(a) a person shall, unless he proves the contrary, be deemed to have been in communication with an agent of a foreign power if— *

(i) he has, either within or without Canada, visited the address of an agent of a foreign power or consorted or associated with such agent; or

(ii) either within or without Canada, the name or address of, or any information regarding such an agent has been found in his possession, or has been supplied by him to any other person, or has been obtained by him from any other person;

(b) the expression 'an agent of a foreign power' includes any person who is or has been or is reasonably suspected of being or having been employed by a foreign power either directly or indirectly for the purpose of committing an act, either within or without Canada, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without Canada, committed, or attempted to commit, *

*Our underlines.

such an act in the interests of a foreign power;

- (c) any address, whether within or without Canada, reasonably suspected of being an address used for the receipt of communications intended for an agent of a foreign power, or any address at which such an agent resides, or to which he resorts for the purpose of giving or receiving communication, or at which he carries on any business, shall be deemed to be the address of an agent of a foreign power, and communications addressed to such an address to be communications with such an agent.

Sec. 4(3) If any person receives any secret official code word, or pass word, or sketch, plan, model, article, note, document or information, knowing or having reasonable ground to believe, at the time when he receives it, that the code word, pass word, sketch, plan, model, article, note, document or information is communicated to him in contravention of this Act he shall be guilty of an offence under this Act, unless he proves that *
the communication to him of the code word, pass word, sketch, plan, model, article, note, document or information was contrary to his desire;

he shall be guilty of an offence under this Act.

Sec. 9 Any person who attempts to commit *
an offence under this Act, or solicits or incites or endeavours to persuade another person to commit an offence, or aids or abets and does any act preparatory *
to the commission of an offence under this Act, shall be guilty of an offence under this Act and shall be liable to the same punishment, and to be proceeded against in the same manner, as if he had committed the offence.

*Our underlines.

The provisions of section 10 are particularly important and show that the statute is preventive as well as retributive. By this section any person reasonably *suspected* of "*being about to commit*" an offence may be arrested without warrant and detained by any constable or police officer. The section follows:—

10. Any person who is found committing an offence under this Act, or who is reasonably suspected of having committed, or having attempted to commit, or being about to commit, such an offence, may be arrested without a warrant and detained by any constable or police officer. *
*
*

It will be observed that while by section 9 an attempt to commit an offence or an act preparatory to the commission of an offence is in each case constituted an offence itself, nowhere in section 9 nor elsewhere in the statute is the fact of being "about to commit" an offence constituted an offence with which any person may be charged or for which he may be convicted. Section 10 provides for detention in such case and nothing more and the section places no time limit upon such detention. Neither does it contain any provision corresponding to such provisions as are found in sections 652 and 664 of the Criminal Code which provide that the person detained under those sections must be brought before a judicial officer within a certain time limited by the sections to be dealt with by him.

As to the provision for interrogation at the instance of the Minister, provided for in sub-paragraph 1 of the Order, such a provision, although not in the Canadian statute, is not new in matters within this field. Section 6 of the British Act of 1920 for instance provided:—

that it shall be the duty of every person to give on demand to a chief officer of police, or to a superintendent or other officer of police not below the rank of inspector appointed by a chief officer for the purpose, or to any member of His Majesty's forces engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under the principal Act or this Act. . . .

With respect to paragraph 4 of Order in Council P.C. 6444, this is in substance a reproduction of section 11 of *The Official Secrets Act, 1939*.

As already noted above, section 10 is silent as to the length of time during which a person reasonably suspected of *being about to commit an*

*Our underlines.

offence, may be detained by the constable who arrests him. It may be suggested, therefore, that the common law rule would apply and that the person detained must be brought before a judicial officer within a reasonable time. A "reasonable time" within the meaning of the common law rule is such time as is reasonably necessary in the ordinary course to bring the person before a magistrate. The jurisdiction of the magistrate at common law, as under section 668 of the Code, is limited to an inquiry into the matters "charged". In the case of a person arrested and detained on suspicion merely of being "about to commit" an offence, there is no charge and, therefore, nothing for the magistrate to inquire into. If it could be said, therefore, that in such case, there being no charge, the magistrate assuming a non-existent jurisdiction must direct the release of the person detained, the preventive purpose of *The Official Secrets Act* might well fail, as the person, by his release, would be then given an opportunity to commit the actual offence; and it is provided by section 15 of the Interpretation Act, 1927, R.S.C., cap. 1, that every Act and every provision thereof shall be deemed remedial whether its immediate purport is to direct the doing of anything which Parliament deems to be for the public good, or to prevent or punish the doing of any thing which it deems contrary to the public good and "shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act and of such provision or enactment, according to its true intent, meaning and spirit".

The release of a person reasonably suspected of being about to communicate information contrary to the statute merely because no charge has been made where no charge could in law be made, would not be in accord with the purpose of the authority given by section 10 to arrest and detain such a person.

On the other hand, is the duration of the detention authorized by the section to be considered as during such period, in the discretion of the arresting constable, as he thinks reasonably necessary to prevent the commission of the offence, and is his discretion subject to review by the court on any application brought by the person detained to secure his freedom? If the detention were not to be for a sufficient period to prevent the commission of the actual offence or to remove the suspicion, the preventive purpose of the statute might be defeated, but the Governor General in Council provided by Order in Council P.C. 6444 that the Minister of Justice, with whose consent alone, as provided by section 12 of *The Official Secrets*

Act, a prosecution for any offence under the statute may be instituted, should determine when detention shall be no longer necessary.

If then, as laid down in section 10 of the Canadian statute above, Parliament contemplated that, in the case of a single individual suspected by "any" constable or police officer of "being about to commit" the offence of communicating information to a foreign power, such person might be arrested without warrant, it would seem that in a case where there was not just one individual but many suspected, their detention at the instance not of a constable or police officer but under the authority of an Order in Council, would certainly be within the contemplation of the statute.

In concurring in the advice tendered the Minister by counsel, we had before us the secret records of the Russian Embassy itself with regard to the persons proposed to be detained. We had also heard the evidence of Gouzenko in part and had perused a precis of the additional evidence he had to give. Up to this time, February 14th, so far as we are aware, there had been no publication of the fact that an investigation of any kind was proceeding. The only fact known to the staff of the Russian Embassy, and through them to their Canadian agents, was the fact of Gouzenko's disappearance with some records, of the particulars of which the Embassy could not be certain. The Embassy no doubt may have suspected that Gouzenko had made disclosures to the Canadian authorities, and the slowing up or discontinuance of some of the operations noticeable in the cases of Woikin, Willsher and Adams is evidence of that.

The long period of silence following September 7th however might well have had some reassuring effect and the case of Adams would seem to be in point. While the espionage organization would observe every caution other circumstances indicated strongly that it was still functioning with the consequent continued communication of the information which it had been designed to obtain.

In a cable of August 25th, 1945, Zabotin reported to "*The Director*" that Krotov, the Commercial Counsellor of the Embassy, who had been in Moscow for a time, had arrived back in Ottawa, and that Zabotin had learned from him that he would have a staff of 97 persons. Up to that time, according to the return made by the Embassy to the Department of External Affairs, the Commercial Counsellor's staff amounted to approximately fifty persons.

The cable goes on to state that a part of this staff had been selected by Krotov and were to be "*trained in the Centre*"—i.e. Red Army Intelligence Headquarters—but that the selection of staff had not been completed. It is also stated that Sokolov was to remain in Krotov's organization but to

be under instructions of "his boss", namely, Zabolin. The cable further states that this organization of Krotov is to move to Montreal. Zabolin's staff was also to be increased:—

" . . . In connection with the increase of our staffs it would not be bad to occupy the house of the Economist after their departure. . . . The House of the Economist is almost twice as large as ours."

Zabolin occupied premises on Range Road while Krotov's establishment was on Blackburn Avenue. The cable itself is as follows:—

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To the Director,

The Economist has arrived. In a conversation with him I learned that his staff will consist of 97 persons. A part of the persons selected by him will be trained in the centre, but the staff was not fully selected. Davy will remain in the apparatus of the Economist on the instructions of his boss. The establishment of the Economist will move to Montreal. In connection with the increase of our staffs it would not be bad to occupy the house of the Economist after their departure. The Economist promised to let me know in time. The boss of metro is also aspiring to occupy this house, although they have no particular need. Please support my proposal in the future, if it is made by me to you or to the Chief Director in a telegram. The house of the Economist is almost twice as large as ours.

Grant

25.8.45

It is apparent then that both Zabolin and Krotov were in the process of augmenting their respective staffs. Zabolin's staff was largely concerned with espionage. Krotov was to have at least one espionage agent, Sokolov. The name *Economist* itself is the cover-name used by the Red Army Intelligence for Krotov who himself, according to the documents, had at one time been active in the espionage organization.

The significant thing is that no change in these plans took place after Gouzenko disappeared from the Embassy. On 28th August the Soviet Ambassador had pressed the Canadian Government for permission to open trade offices in Montreal or Toronto *with diplomatic immunity*. He again pressed this in October. In connection with this matter a senior official of the Canadian Department of External Affairs testified as follows:—

- Q. The evidence given before the Commission indicates a policy on the part of the Russian Government largely to increase the staff of the Commercial Counsellor's office here in Ottawa, with the possible intention of moving it either to Toronto or Montreal, and also to increase Zabotin's staff; and there is some evidence that at least part of the increase was for the purpose of having additional people to work in these subversive activities. Would it be necessary for the Russian Government, we will say, to increase the staff of the Commercial Counsellor's office from fifteen or twenty to ninety or one hundred; and, if so, was such a request made? Can you give the Commission any information on that?
- A. No request was made to increase the staff of the Commercial Counsellor's office in Ottawa, and it would not be necessary for them to secure consent. They would have to notify us, and of course any entrant would have to have a visa if he was coming from Russia, so we would know in general what they were doing and we would also require all diplomatic missions in Ottawa to make periodical returns showing their entire staff, everybody in the employ of the Mission, so we could keep an eye on the number.

Q. Can you give the Commission any information as to a recent request from the Russian Government to open a trade mission in Montreal with diplomatic immunity?

A. The request did not come forward in quite that form. The location was never settled. We heard about it first on the 28th August, 1945, when Mr. Zaroubin and Mr. Krotov called on Mr. Norman Robertson, as they put it, to discuss the suggestion that they were proposing to speak to their government — that is, they made it clear that they were not acting on instructions from Moscow, — for the reorganization of their commercial representation in this country.

They said that they had in mind the establishment of a trade delegation under the supervision of the Embassy but separate from the Embassy, with headquarters possibly in Montreal or Toronto. I think they made it clear they were thinking only of one office, not one in both places, at that stage.

They said that this was the sort of standard form of commercial representation that they had in the United Kingdom and other countries, and that they felt that with the end of the war the

centralization of commercial activities in Ottawa would cease, and they would be in a better position to conduct their activities with some decentralization.

Mr. Robertson at that time queried them on the question of immunities and privileges for any such Mission. He promised to look into the matter and let them know what our general attitude was. This was entirely verbal; there was no written request at any time from the Soviet Embassy on this point.

We made inquiries as to the practice in other countries. Before we received any answer, Krotov's legal adviser, whose name was Pianov, saw the head of our Economic Division in my Department and made a lot of detailed requests for information on Canadian laws and regulations applicable to trade missions of other Governments. We did not do anything very much about this in view of the time at which these requests were made.

However, I had occasion to see Mr. Zaroubin and Mr. Krotov again on October 13 about some difficulties we were having over the payment of contracts, and they started the ball rolling by tackling me vigorously on the fact that they had made this request and had not received any answer. I do not know that I got much in the way of new information from them.

They then asserted that they were asking the same privileges that had been granted in Europe and that such organization was not intended to be a purchasing or selling agency and that it was intended to establish it only in the one place, either Montreal or Toronto. They added that it was the custom of the Soviet Government to request diplomatic status for such Missions dealing with trade questions in other countries.

I answered that if it was not going to buy or sell, but was going to deal with intergovernmental trade matters, I could see no good reason why it should not be in Ottawa where, after all, the Government was situated, but I did not get any very convincing answer.

Q. Did you get any answer?

A. The Ambassador's answer was that they felt that in any case they would need some commercial agent in Montreal or Toronto or perhaps in both eventually. I then told Zaroubin that we wanted to look at our own position about the status of our own trade commissioners abroad, and suggested that if we would meet them

in any way at all it would be on a reciprocal basis and if we could be assured that we would receive permission if we wished to open a commercial agency in Leningrad or Vladivostock, for example. It was left there for some time.

We had given considerable thought to this matter of reciprocal agreements, and I expect that they might have been turned down, but we never presented any further proposals to them. The last I heard of it from the Soviet side was one day when Mr. Zaroubin was leaving Ottawa to return to Moscow on what he described as a brief visit for consultation. I think this was early in December. He paid a farewell call on Mr. Robertson and myself and mentioned his desire to receive an answer as to what we were ready to agree to so that he would, when he was in Moscow, be able to make arrangements with the Commissar of Foreign Trade.

Q. That was December, 1945?

A. I am afraid I have not the exact date here.

Q. Mr. Zaroubin has not yet returned?

A. Mr. Zaroubin has not yet returned.

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Q. In connection with this suggestion of Zaroubin and Krotov for a trade body in Montreal or Toronto which was not going to buy or sell; not having much imagination about these things, what could it do? What was the suggestion?

A. That, Mr. Commissioner, was what was rather puzzling me. I found I was in error in saying we had no written communications with the Soviet Ambassador. I saw him some time early in October, October 26th, and during a talk on another matter he pressed me for an answer. I said, "Please let us have your detailed plans in writing on this point because otherwise we cannot consider them fairly in consultation with other Departments of Government, as to what reply we should give." I had an answer on November 13, 1945, which contains this paragraph:—

The principal functions of the trade representatives of the U.S.S.R. in the countries in which they exist are, briefly, as follows:—

(1) To represent the interests of the U.S.S.R. in respect of foreign trade and to facilitate and encourage

the development of trade and other economic relations between the U.S.S.R. and a respective country;

(2) To control and regulate foreign trade of the U.S.S.R. with a respective country;

(3) To effect the transactions in foreign trade on the basis of state monopoly of foreign trade.

... not very informative.

During the war because of the different processes of manufacture at many different points in Canada for the U.S.S.R. they were under some necessity of having people visit factories to discuss specifications and so on with manufacturers. We certainly did not prevent that; we rather encouraged them to do that at times, and we were contemplating that there would be a continuation of this manufacturing account with the U.S.S.R. after the war. However, this would be on a commercial basis in which the Soviet Government would be dealing directly with the Canadian manufacturer concerned and would not justify, therefore, the creation of a Mission with full diplomatic privileges and immunities, although it might justify the creation of some representation in various centres of industry in Canada.

The extent of the ramifications of the espionage organization and the identity of all its agents was not known on February 14th. There were a number of agents designated in the Embassy records by cover names only whom Gouzenko could not identify. The provisions of the Order in Council being preventive, it was of the utmost importance that the identity of as many agents as possible should be discovered together with the method by which each functioned. Detention of those under suspicion would not only prevent further communication by them if it turned out that they were in fact agents, but there was every reasonable expectation that their evidence would lead to other discoveries. We felt that the exercise by the Minister of the power conferred upon him by Order in Council P.C. 6444 would have much more chance of effectuating the preventive intent of that Order and of the Statute by the discovery of the full ramifications of the espionage organization, than failure to exercise it, the result of which would be to leave to these persons the fullest opportunity, once one of them had been called to testify before us, to collaborate with each other and to receive

"instructions" from those directing their organization as to what they should or should not reveal.

If they had been left free to do this it would have hampered the work of this Commission, if it did not render it at least partly ineffective. Ascertaining the scope and determining the organization of the Fifth Column and the various spy rings and identifying the Canadians who were already at work as agents, or who were being drawn into the net would enable an immediate stop to be put to the subversive activities, would prevent many others from being corrupted, at the same time exonerating those who had been placed under suspicion but who in fact were innocent. Failure to prevent such collaboration would also disclose the information in the possession of the Commission and particularly the nature of the documents Gouzenko had brought with him. The lengths to which the Russians were prepared to go to recover these documents or to ascertain what he actually had in his possession reveals the importance they attached to this information. In fact even under the procedure adopted it will be seen that the agents were able to arrange for the destruction of material evidence, to prevent the return to Canada of at least one material witness, and to cause at least one material witness in Canada to disappear. We have found one case where an agent was warned by a telegram which while innocent on its face was in fact a code warning. This, fortunately, came too late to be of use to him.

It is merely to state cold fact to say that if the documents brought by Gouzenko on the 14th of February were found to be authentic, there had been laid bare before us, not just the case of a foreign agent having broken into a government department and committed theft, but a malignant growth, the full penetration of which we did not know, but which was alive and expanding, working in secret below ground, directed against the safety and interests of Canada by a foreign power and made up of Canadian citizens who, while giving lip allegiance to this country and the oaths of allegiance and secrecy they had taken, were in truth and in deed solely devoted to that foreign power, believing it to be the supreme exponent of ideas to which they had given themselves as much as if they were its citizens, and not citizens of this country. We have found Gouzenko's evidence to be reliable wherever it relates to the various Russian organizations and the operations directed by Sokolov and Zabotin, and it is verified by other independent evidence to a remarkable degree. On the 14th of February we had before us his written statement in which he said:—

Having imposed its communist regime on the people, the Government of the Soviet Union asserts that the Russian people have, as it were, their own particular understanding of freedom and democracy, different from that which prevails among the peoples of the western democracies. This is a lie. The Russian people have the same understanding of freedom as all the peoples of the world. However, the Russian people cannot realize their dream of freedom and a democratic government on account of cruel terror and persecution.

Holding forth at international conferences with voluble statements about peace and security, the Soviet Government is simultaneously preparing secretly for the third world war. To meet this war the Soviet government is creating in democratic countries, including Canada, a fifth column, in the organization of which even diplomatic representatives of the Soviet government take part.

The announcement of the dissolution of the Comintern, was, probably, the greatest farce of the Communists in recent years. Only the name was liquidated, with the object of reassuring public opinion in the democratic countries. Actually the Comintern exists and continues its work, because the Soviet leaders have never relinquished the idea of establishing a Communist dictatorship throughout the world.

Taking into account least of all that this adventurous idea will cost millions of Russian lives, the Communists are engendering hatred in the Russian people towards everything foreign.

To many Soviet people here and abroad it is clear that the Communist party in democratic countries has changed long ago from a political party into a fifth column in these countries to meet a war, into an instrument in the hands of the Soviet government for creating artificial unrest, provocation, etc., etc.

Through numerous party agitators the Soviet government stirs up the Russian people in every possible way against the peoples of the democratic countries, preparing the ground for the third world war.

*Underlined in original written statement by Gouzenko.

†Our underlines.

During my residence in Canada I have seen how the Canadian people and their government, sincerely wishing to help the Soviet people, sent supplies to the Soviet Union, collected money for the welfare of the Russian people, sacrificing the lives of their sons in the delivery of these supplies across the ocean—and instead of gratitude for the help rendered, the Soviet government is developing espionage activity in Canada, preparing to deliver a stab in the back of Canada—all this without the knowledge of the Russian people.

We also knew at that time what Gouzenko had said to the officers to whom he first told his story. One of these officers related Gouzenko's first statements as follows:—

“‘Why should Russia now be preparing for a third world war?’ He said, ‘Well, there is one great enemy to defeat, and that is capitalism’, and everything in the Soviet Union, at least what the regime is doing now, is designed for that purpose.

“He insisted that the abolition of the Comintern was a farce, that in reality the Comintern continues to function, not in the old form but in a new and possibly slightly camouflaged form.

“In relating certain things he stated that the people at the Embassy if they are really asked and are in a position to express a true opinion, those that are not really tied in with the communist ideology, fear another world war and those who are really members of the Communist Party and subsidiary organizations, they think that that is part of the process leading toward a general upheaving throughout the world resulting in the establishment of communism the world over.”

We might mention here that Gouzenko elaborated before us at a later date on his earlier evidence, but without changing its substance. He deposed as follows:—

“Then take the situation in Russia. There is a preparation for war there. They are educating the people. They are telling the people that everything that is outside the borders of Russia is an enemy. Even during the most dangerous moments during the last war they told the people that even though the allies were fighting at their side, they might still be enemies.

"There was one last conversation that Colonel Zabotin had with us. This was before the 5th of September. He gathered us in this room at 14 Range Road and said, 'Yesterday they were allies, today they are neighbours, tomorrow they will be our enemies.' In Russia there is a great deal of propaganda carried on by conversation of the propagandists and sometimes even in the press. It is all done to train the people to think that they must fight another war, that maybe it will be our final war."

"Decoding these telegrams I involuntarily know these facts of the secret side of the policy of the Soviet government. The Russian people, thanks to the enforcement of the Soviet government, is isolated from life in the democratic countries. They do not know the reality beyond the bounds of the Soviet Union border. They are imbued with the idea that the people in democratic countries live in some kind of chaos. Prior to the war the word 'democracy' even had a bad meaning. If you were to call a man in Russia a democrat he will be offended.

"The Russian people are being brought up in the single-minded idea that the system existing in Russia is the only system having a future; the systems of the democratic countries, in accordance with this teaching, are doomed to defeat and will be destroyed by force and replaced by communism."

We believe Gouzenko reported what he heard at the Ottawa Embassy honestly and accurately, but we have no way of knowing to what extent these views are held by Russians other than those in the Embassy who expressed them. In so far as the opinions expressed by him are concerned we are impressed by his sincerity, and conscious of the opportunities he had to be well informed whereof he spoke. Whether the international situation at that time (or since) makes the accuracy of his opinions more or less probable, is not the point. We felt on the 14th of February we could not take the responsibility of ignoring this evidence. It may be that others, called upon at that time to exercise their judgment in the circumstances presented to us, might have felt differently — such was not our judgment.

In a book, published in 1945, Alexander Barmine, a member of the Soviet Diplomatic Service up until 1937, thus expresses his judgment with regard to purpose of the kind of activities reviewed in this report. At page 319 he says:—

"All this does not mean that Stalin has withdrawn his support from the so-called 'communists' who are manoeuvring for power in other countries. If he wanted to do that, he need only speak in the right quarters a single word. But it does mean, in my opinion, that he is using their manoeuvres only to weaken these countries and enhance his own and Russia's power. He will extend his totalitarian caste system to as many other countries as he can, and it is fantastic to pretend that he is 'fostering democracy' or 'going back toward capitalism' in Russia or anywhere else. He cannot do that without weakening his own position. His instinctive drive is toward power, and he will defend Russia's power in the world by undermining the democracies, just as he defended his own power within Russia by killing all those who began to see that democracy was the true solution of her problems."

(From the book *One Who Survived*)

We quote this without comment.

Accordingly, with our concurrence, counsel wrote to the Minister of Justice as follows:—

Ottawa, February 14th, 1946.

Dear Sir:

Re: Royal Commission—P.C. 411

By reason of the nature of the evidence already submitted to the Royal Commission, the undersigned counsel to the Commission have recommended to the Commissioners that you should be requested to exercise the powers conferred upon you by P.C. 6444, 6th October, 1945, and to issue Orders for interrogation and, for that purpose, detention of the following persons:

Isidore Halperin	Raymond Boyer
David Shugar	James Scotland Benning
M. S. Nightingale	H. S. Gerson
F. W. Poland	Eric Adams
Ned Mazerall	Emma Woikin
Durnford Smith	Gordon Lunan

The reasons which impel the Commissioners to accept our advice as above is the extremely serious nature of the disclosures so far made and indicated by the evidence, the fact that cover names of persons

who have not so far been identified also appear in the evidence and indicate that the full extent of the ramifications of the disloyal practices and the persons engaged therein may be even greater than is already known and may be continuing; in effect the matter appears to be so serious from the national standpoint that the Commissioners believe that the course we advise should be pursued in these exceptional circumstances.

Yours sincerely,

(Sgd.) E. K. Williams,
Gerald Fauteux,
D. W. Mundell.

The Rt. Hon. Louis St. Laurent,
Minister of Justice,
Ottawa.

With regard to the expectation that the exercise by the Minister of his authority under Order in Council P.C. 6444 would lead to the discovery of others concerned in these activities, we are able to say that this has been the result. For reasons which will appear such a result may have been attained to a much greater degree than can be demonstrated.

In the first place, Lunan, when he appeared before us, gave his evidence, we think, pretty fully, making allowance for the natural reluctance which we have no doubt he felt in describing what he had done, to say nothing of his reluctance to speak of what he knew of the actions of others. When later at large he had the opportunity of discussing matters with others and of receiving instructions from others, he fell mute when called as a witness in the proceedings instituted against Fred Rose and Mazerall.

Adams, Gerson, and Nightingale also, who had given evidence before us, refused to testify when called by the Crown as witnesses at the trial of Fred Rose. Woikin, in the course of her evidence at the same trial, took a somewhat similar attitude and was designated a hostile witness by the Court.

Further, the typewriter which Lunan had used to type his reports to Rogov and which he had taken with him to England where he was until shortly preceding his detention, was found in his father's home in the United Kingdom by members of Scotland Yard, who entered on a search warrant issued under the *British Official Secrets Act*, broken up into pieces, the result of which, as he no doubt intended, would render it difficult, if

not impossible, to prove if he remained mute, that he was the author of the reports. We think it very likely that the evidence he gave before us touching himself, Halperin, Mazerall and Smith, would not have been available had Order in Council P.C. 6444 not been acted upon with regard to him. Whether that would have been a desirable result, having regard to the provisions of *The Official Secrets Act, 1939*, to which we have referred, admits of no answer other than a negative.

It is perhaps merely a matter of comment in this context for us to say that, from the position we have occupied enabling us to observe the persons who were detained as they gave evidence before us, opportunity to deliver such confidential information as they were able from time to time to obtain, was the only conditioning fact for its actual delivery. Veall was especially frank:—

Q. Let us be perfectly clear. You say with the exception of the last — I think you said the last six or twelve months:

A. Yes.

Q. If somebody had asked you for secret information that you would have given it notwithstanding any acknowledgment or understanding there was between you and your employer, the British Government?

A. Yes.

The evidence also contains instances of where the decision to enter upon the work of espionage was not made except upon reflection. All such persons needed for action was opportunity.

We are satisfied that Freda Linton would not have been the only witness who disappeared, with the consequent loss of testimony, had not Order in Council P.C. 6444 been acted upon. Freda Linton appeared on the Embassy records only as *Freda* and Gouzenko could give her no other name nor could he identify her in any other way. The evidence of Nightingale, however, identified *Freda* as Freda Linton and Gouzenko subsequently identified her photograph as that of a woman he met at Sokolov's. We are confirmed in our view as above by the fact that if Sam Carr ever returned to Canada from the trip he made to the United States and Cuba on January 15th he also disappeared, and he cannot be found although his evidence was sought by the Commission. It is doubtful if the provisions of Order in Council P.C. 6444 extended to Carr so as to permit his detention as he is not within the class of "public officials and other persons in positions of trust". In any event he was not, so far as can be ascertained, in Canada on February 14th, 1946. The existence of Agatha Chapman, to whose activities we attach a great deal of importance, was

disclosed for the first time by Willsher. Frank Chubb is the "Chub" named in the Embassy records. Gouzenko could not identify him but Boyer did so and he has appeared before the Commission. Further, large numbers of important documents were found in the possession of important witnesses which would never have been available to the Commission if the powers given by section 4 of Order in Council P.C. 6444 had not been exercised. These documents furnished a great deal of valuable information.

From our observation of and experience with the persons engaged in these espionage activities who appeared before us as witnesses, it became apparent to us that they had been purposefully educated to a condition of mind in which they regarded obedience to the rules of Communist bodies as their highest duty and that, if their immediate objects could be advanced or protected by mendacity or concealment, including refusal to testify at all, they were quite prepared for such a course and recognized it as a requirement expected of them. Halperin, at an early stage of his examination, refused to testify further, notwithstanding the provisions of *The Inquiries Act*, which required him to do so, and notwithstanding the advice of his own counsel as to his obligation to testify. Upon his refusal to accept his Counsel's advice, that Counsel therefore withdrew. Again, Poland refused to be sworn, or to testify at all.

There were mentioned in the Embassy records brought by Gouzenko a number of other names of persons, both cover-names and real names, whom Gouzenko did not know. The identity of some of these, and others, has, however, as a result of the testimony given, now been ascertained. However, there are some seven agents designated by what appear to be cover-names who were, according to the records, working in Canada, and a number employed outside of Canada, whose identity we have not been able to discover.

There is also this further consideration to be kept in mind. As we have indicated in this Report, motivation for espionage was the result of careful and widespread preparation in secret study groups. Many more persons in the public service were being conditioned along these lines than were as yet actively participating in espionage. To obtain the evidence of those who had actually participated, independent of any consultation between them and free from "instructions" by others, seemed most likely to secure the disclosure of the names of a considerable number of members of these secret groups in the public service being "developed" for future use. It is to be remembered, as the documents show, that the agency organization was designed for expansion and for even greater use in the future.

We think it unnecessary to mention in this Report the names of such persons. Many, we have no doubt, would be unaware of the real object for which they were being "developed". The names, however, in so far as such persons have been identified, appear in evidence, and the situation may be reviewed by the proper authorities.

On February 14th, also we were apprised of the contents of the following letter written by the High Commissioner for the United Kingdom in Canada to the Minister of Justice. The letter itself was subsequently placed in evidence. It reads:—

**OFFICE OF THE HIGH COMMISSIONER FOR THE
UNITED KINGDOM**

SECRET

Ottawa, 14th February, 1946.

Sir,

In connection with an enquiry which is in progress by a Royal Commission, I understand that it has been decided to detain for interrogation a number of persons in Canadian Government employment. I am authorized by the United Kingdom authorities to request that, in view of evidence that a member of the staff of my Office may be involved in the particular activities which the Commission is investigating, she also should be detained for interrogation. Her name is Miss K. M. Willsher and her address is known to the appropriate Canadian authorities.

I therefore wish to request that, if the Canadian authorities are agreeable to this course, you will be good enough to have arrangements made according for her interrogation and detention for that purpose.

Yours sincerely,

(Sgd.) Malcolm MacDonald

Rt. Hon. L. S. St. Laurent,

Minister of Justice,

Ottawa.

In terminating our comments with respect to our concurrence in counsel's advice with respect to the exercise by the Minister of the authority conferred upon him by Order in Council P.C. 6444, it remains only to point out that by the express provisions of that Order the persons detained under those provisions were to be detained "in such place and under such conditions" as should from time to time be determined by the Minister.

The interrogation of which the Order speaks is not the examination conducted before us pursuant to Section 4 of *The Inquiries Act*. We had no jurisdiction with regard to such interrogation, and the transcription of whatever interrogation took place under the provisions of the Order was not made available to us, nor was it referred to by Counsel, except that in a very few instances in connection with certain points which arose, the witness was referred to statements made by the witness during interrogation under Order in Council P.C. 6444.

We may mention that none of the witnesses who had been detained under Order in Council P.C. 6444 made or suggested any complaint to us about their interrogation, the methods of their interrogation, the living conditions in their places of detention, or their treatment by their custodians, the Royal Canadian Mounted Police.

2. Order in Council P.C. 411

Dealing now with Order in Council P.C. 411, the law governing the discharge of our duty under it is laid down by *The Inquiries Act*, R.S.C. 1927, c. 99, pursuant to which we were appointed, and by the express terms of Order in Council P.C. 411 itself. We should say something with respect to these provisions and their application to the Inquiry.

Before referring to the provisions of the law in detail, it should be pointed out that a Commission under *The Inquiries Act* is, as provided by Section 2 of that statute, appointed for the purpose of making an inquiry whenever the Governor in Council deems it expedient to cause an inquiry to be made "into and concerning any matter connected with the good government of Canada or the conduct of any part of the public business thereof".

The position of persons summoned to give evidence before the Commission is governed by Sections 4 and 5. They are as follows:—

4. **The commissioners shall have the power of summoning before them any witnesses, and of requiring them to give evidence on oath, or on solemn affirmation if they are persons entitled to affirm in civil matters, and orally or in writing, and to produce such documents and things as the commissioners deem requisite to the full investigation of the matters into which they are appointed to examine.**

5. **The commissioners shall have the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in any court of record in civil cases.**

In view of this statutory obligation to speak, any idea that all persons whose conduct is being investigated before a Commission under the Statute should be cautioned before being required to give evidence, is based on a misconception. Of course, the ordinary warning that a person is not obliged to speak, but that if he does, anything that he might say may be used at his trial, must at common law be given to a person who is accused, or to a person who is so strongly suspected of having committed a crime that it is the intention of the authorities to prosecute him before the Criminal Courts (*Gach v. The King*, 1943, S.C.R. 250), which have the power to punish for the crime: a power which a Commission does not possess.

This rule of law is based on the sound principle that confessions must be free from fear and not inspired by hope of advantage which a person may expect from a person in authority, but it finds its application only when the person about to be interrogated is free to remain silent and is not under the compulsion of law to speak. It does not and cannot be applied to a person who is under the compulsion of a statute to reveal to a Commission or other body the existence of facts of which he is aware. *The King v. Walker*, 1939 S.C.R. 214; *Reg. v. Coote*, L.R.4 Privy Council 599.

Under *The Inquiries Act*, Commissioners are given power by the sections above quoted to compel a witness to speak, and to impose sanctions in case of a refusal. It would be a mockery of the law, and a derisive pronouncement, to hold that a witness must be given the warning "that he is not obliged to speak . . ." and yet that he should be liable to imprisonment if he did not comply with the compulsory sections of the Act, which provide that he is liable to imprisonment if he refuses to take the oath and answer the questions put to him. In not warning the witnesses, we have followed the only legal course open to us.

It will be convenient here to deal with a slightly different point, namely, whether any duty rested upon us as Commissioners to advise witnesses that they might, if they desired, avail themselves of the provisions of Section 5 of *The Canada Evidence Act*, Revised Statutes of Canada, 1927, cap. 59. It will be sufficient to refer, in this connection to the judgment of the Privy Council in *Regina v. Coote*, L.R. already referred to above. Sir Robert Collier at p. 607 said:—

"The Chief Justice indeed suggests, that Coote may have been ignorant of the law enabling him to decline to answer criminating questions, and that if he had been acquainted with it he might have withheld some of the answers which he gave. As a matter of fact, it would appear that Coote was acquainted with so much of the law; but be this as it may, it is obvious, that to institute an inquiry in each case as to the extent of the Prisoner's knowledge of law, and to speculate whether, if he had known more, he would or would not have refused to answer certain questions, would be to involve a plain rule in endless confusion. Their Lordships see no reason to introduce, with reference to this subject, an exception to the rule, recognized as essential to the administration of the Criminal Law, "*Ignorantia juris non excusat.*" With respect to the objection, that Coote when a Witness should have been cautioned in the manner in which it is directed by Statute, that persons accused before Magistrates are to be cautioned (a question said by Mr. Justice Badgley not to have been reserved, but which is treated as reserved by the Court), it is enough to say, that the caution is by the terms of the Statutes applicable to accused persons only, and has no application whatever to Witnesses."

We may point out, that in more than one case, where witnesses were represented by counsel from the outset of their appearance before us, they gave their evidence without any appeal to the Canada Evidence Act. Be that as it may, no duty with respect to the matter rested upon us. The privilege given, by the Statute, to a witness who wishes to claim it, is said by Phipson in his leading work on Evidence, 7th Edn. at page 206, to be "*based on the policy of encouraging persons to come forward with evidence . . .*" The author does not say that it is aimed against self-incrimination. We feel it is too often lost sight of that the law is not designed to handicap society in its endeavour to protect itself against those of its members who commit offences against it, nor to give advantage to such persons. The language of Riddell J., in the case referred to below, *Rex v. Barnes*, at page 390, may be studied with profit:—

"Much has been said as to the alleged hardship upon Barnes in being compelled to give evidence — it is, however, to be hoped that we have not arrived at the point that one accused of crime has so many and so high rights that the people have none. The administration of our law is not a game in which the cleverer and

more astute is to win, but a serious proceeding by a people in earnest to discover the actual facts for the sake of public safety and the interest of the public generally. It is the duty of every citizen to tell all he knows for the sake of the people at large, their interest and security, and I am not inclined to stretch in any way rules which permit any one to escape from the duties which all others admit and perform — it is for Parliament to frame rules and exceptions, not for the Court.”

The possibility that some charge may be laid in the courts against any person required to attend and testify pursuant to *The Inquiries Act*, or the fact that such a charge has already been laid at the time any person has been required to attend for the purpose of testifying, does not affect the position of such person under the law, or create any immunity from testifying. The point is illustrated by the decision of the Appellate Division of the Supreme Court of Ontario in *Rex v. Barnes*, 49 O.L.R. 374. In that case the obligation of Barnes to testify in the proceedings there in question arose under an Ontario statute in somewhat the same terms as Section 5 of *The Inquiries Act*, namely, R.S.O., 1914, cap. 92, sec. 35, which provided that:—

in addition to any other powers which he may possess, a coroner shall have the same power to issue summonses to witnesses, Form 8, to enforce their attendance and to punish for non-attendance or refusing to give evidence as is possessed by the Supreme Court.

The language of the late Mr. Justice Riddell at p. 390 *mutatis mutandis*, applies:—

The fact, then, that it is possible, probable or certain that one has caused the death of another does not take away his right to give evidence of the facts before the coroner, and at the Common Law the right and duty to give evidence are correlative. If one who had the right to give evidence should for any reason refuse, he could be compelled.

Had Barnes been in fact arrested and detained under the warrant of the coroner there in question, the same principle applied. The Court refused to set aside the warrant or prohibit its enforcement against Barnes, who at the time was evading arrest.

With respect to the representation of persons called to give evidence before a Royal Commission the English law is stated in Halsbury's Laws of England, 2nd Edition, Vol.2,p.501, as follows:—

Sub-Section 5—Non-Judicial Proceedings.

679. There are some proceedings, such as inquiries by Royal Commissioners, etc., where there may be no right for any one to appear except persons summoned, and where, therefore, counsel have no right to appear. But at such inquiries counsel, by leave of the commissioners, are often present, and examine and cross-examine witnesses. Tribunals of inquiry to which the Tribunals of Inquiry (Evidence) Act, 1921, has been applied, have power to authorize the representation before them of any person appearing to them to be interested by counsel or solicitor or otherwise, or to refuse to allow such representation.

The English statute referred to in the above text, namely, *The Tribunals of Inquiry Act, 1921*, 11 Geo. V., cap. 7, provides by Section 2 (b) that the Tribunal:—

shall have power to authorize the representation before them of any person appearing to them to be interested to be by counsel or solicitor or otherwise, or to refuse to allow such representation.

It is of interest to observe that under the common law also, a person in the position of Barnes in the case above referred to, although committed for trial on a charge of manslaughter has no right to be represented by Counsel in the coroner's court investigating the death of the person whose death was the subject of the charge against Barnes. This was decided in Ontario as long ago as *Agnew v. Stewart*, 21 U.C.Q.B. 396.

The position at law, apart from statute being as above stated, *The Inquiries Act*, contains an express enactment on the subject by which the Commissioners have a discretion to allow any person whose "conduct is being investigated" to be represented by Counsel before them. It is only "if any charge" is made against any person in the course of such investigation that such person is then entitled to Counsel if he so requests.

Further, the statute provides that the Commissioners shall not report against any person until reasonable notice shall have been given to him of the charge of misconduct alleged against him and he shall have been allowed full opportunity to be heard in person "or" by counsel. These provisions, found in sections 12 and 13, are as follows:—

12. The commissioners may allow any person whose conduct is being investigated under this Act, and shall allow any person against whom any charge is made in the course of such investigation, to be represented by counsel.
13. No report shall be made against any person until reasonable notice shall have been given to him of the charge of misconduct alleged against him and he shall have been allowed full opportunity to be heard in person or by counsel.

The statute does not require that the Commission shall *assign* Counsel to persons called to testify. The Commission is given a discretion to allow or refuse representation by Counsel where a witness "whose conduct is being investigated under this Act", asks permission to be so represented, up to the time when a charge is made against him in the course of the investigation. Where the Commission proposes to report against any person against whom a charge has been made, such person must first "have been allowed full opportunity to be heard in person or by counsel". In our conduct of the inquiry committed to us we followed these statutory provisions.

In some instances we considered it expedient, in the exercise of the discretion given us by the statute, not to accede immediately to the request of a witness for representation, although in most instances we did so upon the request being made.

By Order in Council P.C. 411, paragraph 3, it is proposed as follows:—

That the said Commissioners may adopt such procedure and method as they may deem expedient for the conduct of such inquiry and may alter or change the same from time to time;

For reasons which appear in this Report we determined that the Inquiry should be held *in camera* and in order to effectuate the purpose which dictated that decision, at the beginning of the inquiry we required all persons concerned in the inquiry, including witnesses, to take an Oath of Secrecy as to their evidence. All counsel also were in accordance with the custom in such cases required to give their undertaking. This course was followed until in our opinion it was no longer necessary by reason of publication and it was then discontinued. At the same time that the Oath was required of any witness, who expressed any objection on the ground

that it would prevent his consulting with counsel in connection either with the inquiry before us or in any proceedings which might be later initiated concerning such person, or from testifying in such proceedings we gave to such witness a release for such purposes; and in every case where such objection was not made immediately, but a request for a release was later made, such release was given. Further, on the 20th March, 1946, we placed upon the record a general release in the following terms with respect to persons testifying before us and their Counsel:—

In any case where prosecutions may be had in relation to the subject matter of this inquiry the oath of secrecy taken by witnesses and the undertaking of counsel not to divulge to any person any of the evidence of which they were apprised touching the matters in question, nor any document or information coming to them touching the said matters shall cease to have effect to such extent as may be needed to ensure to any accused the exercise of the right of full answer and defence and to enable any witness to give evidence in any of such prosecutions.

Before parting with this phase of the matters before us, it may not be amiss to point out something which some of the witnesses evidently failed to appreciate, if one is to judge by the attitude of witnesses such as Poland and Rose, who refused to testify at all, and Halperin, who testified up to a point only and refused to answer further questions. These witnesses seemed to think that to be required to testify was opposed to some fancied right they regarded themselves as having. We did not think in the particular circumstances that our duty required us to insist on their answering or to impose sanctions for refusal. But we think that the utter absence in law of any basis for their attitude should be pointed out.

The Orders in Council to which we have referred, as well as *The Inquiries Act* and *The Official Secrets Act* and *The War Measures Act* are as much the law of the land as any other law, ancient or modern. While this is obvious, it was not apparently obvious enough to these persons. The enactment of the above statutes was exclusively a matter for Parliament. The provisions of the Orders in Council were equally a matter for the Executive acting under powers conferred by Parliament. Once enacted they are law.

As stated by Lord Haldane L.C. in *The Fort Frances* case (1923 A.C. 695 at p. 706):—

“No authority other than the central Government is in a position to deal with a problem which is essentially one of statesmanship.”

The language of Lord Atkinson in *Rex v. Halliday*, 1917, A.C., 260, may also be referred to. He said at page 272:—

“It was also urged that this Defence of the Realm Consolidation Act of 1914, and the regulations made under it, deprived the subject of his rights under the several Habeas Corpus Acts. That is an entire misconception. The subject retains every right which those statutes confer upon him to have tested and determined in a Court of law, by means of a writ of Habeas Corpus, addressed to the person in whose custody he may be, the legality of the order or warrant by virtue of which he is given into or kept in that custody. If the Legislature chooses to enact that he can be deprived of his liberty and incarcerated or interned for certain things for which he could not have been heretofore incarcerated or interned, that enactment and the orders made under it, if *intra vires*, do not infringe upon the Habeas Corpus Acts in any way whatever, or take away any rights conferred by Magna Charta, for the simple reason that the Act and these Orders become part of the law of the land. If it were otherwise, then every statute and every *intra vires* rule or by-law having the force of law creating a new offence for which imprisonment could be inflicted would amount, *pro tanto*, to a repeal of the Habeas Corpus Acts or of Magna Charta quite as much as does this statute of November 27, 1914, and the regulations validly made under it.”

Reference may be made also to an extract from the judgment of Lord Justice Scrutton in *Ronnfeldt v. Phillips*, 35 Times Law Reports, 46 at 37:—

“Very wide powers had been given to the Executive to act on suspicion in matters affecting the interests of the State. The responsibility for giving those powers rested not with the Judges but with the representatives of the people in Parliament.”

“*Salus populi suprema lex*” is “a good maximum and the enforcement of that essential law gives no right of action to whomsoever may be injured by it” as was said by Darling J. in *Shipton's Case* (1915) 3 K.B. 676 at 684. The maxim finds expression in time of war in such measures as the Defence of Canada Regulations where personal liberty may be interfered with and the person detained on the order of a Minister of the Crown if of opinion

that the interests of the State require it. As has been said the State must, in such cases, act first and investigate afterwards. Meredith C. J. C. P. in *Re Beranek*, 33 O.L.R., 139, said at 141:—

“It is not a time when a prisoner is to have the benefit of the doubt; it is a time when, in all things great and small, the country must have every possible advantage; a time when it must be the general safety first in all things always; until the final victory is won; even though individuals may suffer meanwhile.”

The Official Secrets Act, 1939, is an expression of the same principle, and its provisions are not limited to a time of war. The author of the Introduction to Dicey's *Law of the Constitution*, 9th Edition, at page lxxii says:—

“... A system of law, which like the common law is based on the protection of individual rights, is not readily comparable with legislation which has for its object the welfare of the public, or a large section of it, as a whole. The common law rests upon an individualistic conception of society and lacks the means of enforcing public rights as such. The socialisation of the activities of the people has meant restriction of individual rights by the conferment of powers of a novel character upon governmental organs. But these powers are exercised by an authority which is unquestionably as lawful as that by which the courts impose control in their own sphere. So far as the provision of State social services and the regulation of economic conditions have become part of the accepted philosophy of government, the rule of law still means the supremacy of Parliament. It is only, where constitutional law is concerned, in that small but vital sphere where liberty of person and of speech are guarded that it means the rule of the common law. For here alone has Parliament seen fit to leave the law substantially unaltered and to leave the protection of the freedom of individuals to the operation of the common law. Even so there are many examples today of interference with liberty by statutes. The Official Secrets Acts, 1911 and 1920, are outstanding examples.”

Professor Dicey in the text at page 581 thus describes *The Official Secrets Acts* of the United Kingdom:—

“To ensure the safety of the State the Administration possesses ample powers under the Official Secrets Acts, 1911 and 1920, which

are primarily, but not exclusively, directed to the prevention of espionage and the wrongful communication of information calculated to prejudice the safety of the State if communicated to a potential enemy. These enactments are in fact framed in the widest terms to prevent the publication of any matter which is detrimental to the public interest. They contain some provisions which are capable of being used to stifle freedom of discussion. But abuse of these provisions is to some extent safeguarded by the requirement of consent to a prosecution by the Attorney-General. The avowed object of the Acts is not, of course, to control the liberty of the Press or to restrict discussion of matters of political interest, but to prevent the betrayal to a potential enemy of matters relating to national defence."

By reason of the fact that the circumstances brought to light by the disclosures made by Gouzenko are unprecedented in this country, it is not surprising that the provisions of *The Official Secrets Act, 1939*, are not well known. These circumstances have also demonstrated how necessary such legislation is when occasion demands.

3. EVIDENCE

In deciding on the evidence to be followed we had to consider whether or not we should receive either of the classes of evidence technically designated as "hearsay" and "secondary", a matter solely within our discretion, under the terms of paragraph 3 of Order in Council P.C. 411 above set out. There were many cogent reasons why we should receive and consider any evidence that could be made available, whether direct, hearsay, or secondary.

The situation which we have been called upon to investigate was an extraordinary one in many ways. The organization headed by Zabotin was actually working in the Russian Embassy, taking full advantage of the diplomatic privileges enjoyed by the diplomatic members, which it was obviously considered, made assurance from detection doubly sure, and gave a guarantee of additional secrecy. The members of the Embassy staff engaged in the spying activities were undoubtedly committing breaches of the Criminal Law of Canada, and if not immune, could be prosecuted for these breaches. They were engaged in criminal conspiracy with Canadian citizens and we were charged with the responsibility of ascertaining their identity. It was apparent that members of the staff of the Embassy could not be brought before us.

Other questions of the scope and effect of the immunity arose. For example, while *The Official Secrets Act* contains provisions for obtaining from telegraph and cable companies, originals and transcripts of telegrams, and that would in an ordinary case be done at once, in this case it would be inadvisable to do it, although many of the documents produced by Gouzenko were originals or transcripts of telegrams, and it was clear that many more had been exchanged. Had these been obtained from the companies a great deal more information would undoubtedly have come to light, provided of course the ciphered messages could be deciphered.

While there were at least five different codes being used by the different divisions of the Embassy, all messages were sent out by or received by it. Not only would it have been impossible to obtain production of any of these messages, because of diplomatic immunity, but if it had been possible it would have been necessary to try to decode them and that was something we felt should not be attempted.

On that side therefore we were prevented from making the investigation that would at once be made in any ordinary case. The extent to which we were thus hampered is obvious.

It was necessary, then, to consider how, handicapped at the outset, the situation could best be dealt with. In the first place we had the great advantage of having a relatively large number of secret documents, selected by Gouzenko with remarkable skill and judgment.

In addition Gouzenko was able to give information of great importance gained in the course of his work as cipher clerk to the Military Attaché, and in the course of conversation and discussions with other members of the staff of the Embassy.

The documents primarily recorded the activities of Zabolin's organization which he began to build up on his arrival in Ottawa in June, 1943, but did disclose important facts about earlier organizations which Zabolin took over, in whole or in part, and reorganized, and also some evidence of the existence of other rings.

The use of "cover names" created further difficulties. In some few cases both real and cover names appeared in the documents, in others where only "cover names" were used, Gouzenko was able to supply the real names, but there were "cover names" of persons whose real names Gouzenko did not know, and whom it was necessary to identify in some other way if at all possible. It was unfortunate that Gouzenko had, so far as he knew at that time, never seen a single Canadian agent. This

meant that he could not point to any person and say: "This is the person named as so-and-so in such-and-such a document."

It was evident also that we should have to investigate the conduct of at least one employee of the International Labour Office who also enjoyed diplomatic immunity and the documents indicated that the operations in Canada were linked with similar activities in other countries and the persons outside of Canada would not be subject to the subpoena of this Commission. The profound secrecy which cloaked the operations, and would have continued to cloak them but for Gouzenko's action, made it impossible to obtain direct evidence on many points. We realized that the admission of hearsay or secondary evidence might mean that conclusions would be come to about certain individuals which, while entirely sound and incontrovertible, might not be possible of proof in subsequent proceedings where the stricter rules of evidence were applied. But, after full consideration, we had no hesitation in deciding that all evidence available, direct, hearsay or secondary, should be considered by the Commission. In fact, if this were not done, it was doubtful whether the purposes of the Commission could be achieved. Regarded from the standpoint of the strict rules of evidence referred to above, the documents brought away by Gouzenko might not of themselves be admissible evidence in all cases, but in the circumstances in which they were prepared — where there was not the slightest contemplation that they would ever fall under the eye of any "unauthorized person" — the presumption in favour of their dependability was obvious. Earlier in this Report we had occasion to deal with the rules of evidence in cases of conspiracy and need not repeat here what we have already said. For this reason we decided to accept them, at the same time subjecting them to every test that other evidence made possible. In retrospect, it is remarkable the extent to which the contents of these documents have been substantiated.

It might be observed, too, that we were conducting an inquiry, and not trying an issue. Once we had decided the question of what evidence we would receive, the only question remaining was that of the weight to be given to it. An examination of the sections of this Report in which we deal with persons upon whom we report adversely will show the limited extent to which we rely exclusively on evidence other than direct evidence.

4. STATUS OF THE COMMISSION.

In this Section we have dealt with various matters with respect to which there would appear to have been misunderstanding on the part of some. There is one other matter upon which we think we should say something, namely, the status of a Royal Commission.

In the first place such a Commission is a primary institution, though of a temporary kind, and is upon a formal equality with the other institutions of the State such as the Courts, Houses of Parliament and Privy Council. Reference may be made to Clokie & Robinson "Royal Commissions of Inquiry" (1937) pp. 150, 151.

While it is sitting, and until its existence terminates, it is not subordinate to any body. It is independent in every sense. It is not subject to, or under the control of the Courts. Its function is to conduct the investigation committed to it and to make its report to the Governor in Council. Its report is not subject to review by any Court, nor is it subject to appeal.

The Commission's findings are as authoritative as those of any Court, and, as it is the sole judge of its own procedure, and may receive evidence of any kind in its discretion, it is sometimes in a better position than a Court subject to strict rules as to the admissibility of evidence, to ascertain facts.

In the present inquiry the Commission has had an advantage in that it had before it the full story, as far as it could be learned, of the widespread, but closely interlocked, secret organizations, something no court of criminal jurisdiction, trying individual persons or even small groups of persons could ever have.

The use to be made of its Reports when made was something over which the Commission had no control: but the fact that as a result of its Interim Reports, the proper authorities decided to prosecute certain persons reported upon, did not affect the Commission's duty to pursue the inquiry with which it was charged under the Order in Council by which it was established, namely, to:—

... inquire into and report upon which public officials and other persons in positions of trust or otherwise have communicated, directly or indirectly, secret and confidential information, the disclosure of which might be inimical to the safety and interests of Canada, to the agents of a Foreign Power and the facts relating to and the circumstances surrounding such communication.

In carrying out such duty the Commission is entitled to follow the process of logical reasoning, to draw inferences from facts and from the demeanour of witnesses, and to set out its conclusions and the facts as found by it in such a way that the weight of those conclusions may be examined.

There is, however, one power a Commission does not possess. That is the power to enforce its findings. If it makes findings upon which the proper authorities conclude that certain persons should be punished, those authorities must resort to the courts or tribunals which alone possess the power to punish. Whatever the view there taken, the findings of the Commission, arrived at under its own procedure, and on the evidence before it, are not affected and remain valid.

SECTION XII

SUMMARY OF FINDINGS

I. We report that the following public officials and other persons in positions of trust or otherwise have communicated, directly or indirectly, secret and confidential information, the disclosure of which might be inimical to the safety and interests of Canada, to the agents of a foreign power:—

1. Eric Adams
2. J. Scotland Benning
3. Raymond Boyer
4. H. S. Gerson
5. Israel Halperin
6. David Gordon Lunan
7. Allan Nunn May
8. Edward W. Mazerall
9. Matt. S. Nightingale
10. F. W. Poland
11. David Shugar
12. Durnford P. Smith
13. Kathleen Mary Willsher
14. Emma Woikin

II. We report that we have been unable to identify the following persons named under "cover-names" in the documents and there definitely stated, to have been members of Zabotin's ring:—

"Galya"
"Gini"
"Golia"
"Green"
"Surensen"

III. We also report the following facts relating to and the circumstances surrounding such communication:—

1. There exists in Canada a Fifth Column organized and directed by Russian agents in Canada and in Russia.
2. Within the Fifth Column there are several spy rings.

3. We have been able to identify many of the members of one of these rings, namely, that of which Colonel Zabotin was the head in Canada.
4. Membership in Communist organizations or a sympathy towards Communist ideologies was the primary force which caused these agents to agree to do the acts referred to in their individual cases.
5. The persons named in paragraph I were members of Colonel Zabotin's organization.
6. Without documents such as Gouzenko placed before us we cannot identify any non-Russian members of the other rings.
7. There was an organization whose duty it was to procure false Canadian passports and other citizenship documents for the use of agents engaged in Fifth Column activities, in Canada or elsewhere.
8. Zabotin and his assistants were helping to supervise and finance the work of an organization of agents operating in certain European countries. At least one person temporarily in Canada as an employee of the International Labour Office was a member of this organization, namely, Germina (Hermina) Rabinovitch.
9. Members of the staff of the Russian Embassy at Ottawa who were actively engaged in inadmissible espionage activities are named in Section II. 7.

IV. The following persons who may not come within the category of "*public officials and other persons in positions of trust or otherwise*" were members of Zabotin's organization and took an active part in recruiting agents, acting as contacts and securing and transmitting such secret and confidential information:—

Sam Carr
Fred Rose

V. Many of the persons named in paragraph I hereof were also actively engaged in the organization of "cells" from which agents were recruited, and in addition the following persons were organizers of such cells, or media of communication between espionage agents, or both:—

Agatha Chapman
Freda Linton
S. S. Burman
Henry Harris

VI. The following were active in procuring a false Canadian passport for a Russian agent who was operating in the United States:—

Sam Carr
Henry Harris
John Soboleff, M.D.
W. M. Pappin

VII. The following persons named in the documents did not so far as the evidence discloses take any active part in the subversive activities but would have done so if required:—

Norman Veall
Fred Chubb
Jack Isidor Gottheil

VIII. The names of certain other persons are mentioned in the documents merely because Moscow desired the names of all members of certain government staffs. Outside of those specifically named elsewhere in this Report, there is no necessity for these names to be mentioned.

IX. The names of certain other persons were mentioned in such a context that it was considered advisable to examine them and to investigate their activities. In each case we were satisfied that their conduct has been entirely proper and that while the Russians designed to draw some of them *into the net* in future, having in anticipation of doing so actually given them cover-names, such hopes were in our opinion completely without foundation and the objects of those hopes were unaware that they were being considered. Among these we refer to Col. Jenkins by name, because he has been mentioned by name in the public press.

X. The names of a number of persons, in Government service and otherwise, who were members of secret Communist cells have been disclosed by this Inquiry. These names appear in the volume of evidence. As there is no evidence that these persons were implicated in, or aware of, the espionage networks, we do not consider it necessary to mention these names in this Report.

SECTION XIII

RECOMMENDATIONS

We respectfully recommend:—

1. That, because of the introduction into the evidence, necessarily and unavoidably of secret technical data, the publication of which, according to the witnesses most concerned, would not be in the public interest at this time, none of the Evidence or Exhibits relating to any top secret, secret, restricted or confidential matters be published except with the approval of the Government in consultation with the Heads of the Services, Departments or Organizations concerned.

2. That the proper authorities in each Service, Department and Organization take such steps as may be considered desirable and effective, in the light of this Report and of the Evidence and Exhibits, to prevent further unauthorized transmission of information and to set up further safeguards.

3. That all security measures should be co-ordinated and rendered as uniform as possible.

4. That the Evidence and Exhibits accompanying this Report be placed before the proper persons in the various Services, Departments and Organizations affected, for study so that a complete evaluation of the information and material handed over can be made in each case to ascertain in detail what has, and what has not, been compromised. That consideration be given to whether the findings so made should be communicated to the proper authorities in the United Kingdom and the United States.

5. That *The Official Secrets Act, 1939*, be studied in the light of the information contained in this Report and in the Evidence and Exhibits, and, if it is thought advisable, that it be amended to provide additional safeguards.

6. That consideration be given to any additional security measures which would be practical to prevent the infiltration into positions of trust under the Government of persons likely to commit acts such as those described in this Report.

7. That the practice and procedure in connection with the issue of Canadian passports be revised. While not elsewhere referred to in this Report, we have had evidence indicating that naturalization and birth certificates have also been improperly obtained. We therefore suggest that the conditions surrounding the issue of these documents might be the subject of consideration by the proper authority.

SECTION XIV

CONCLUSION

We have now completed the Inquiry directed by Order in Council P.C. 411.

We think, however, we should not close this Report without recording our appreciation of the work of the staff of the Commission and the Officers and men of The Royal Canadian Mounted Police who were detailed to assist us in the discharge of our duty.

The services rendered by Mr. W. K. Campbell as Clerk of the Commission are beyond all praise and his intelligent and devoted work did much to assist us in our task. When he had to leave to accompany Sir Lyman Duff to England Mr. J. H. Pepper worthily carried on in the manner followed by Mr. Campbell.

To the Chief Reporters, Mr. Featherston and Mr. Buskard, their assistants and staffs, we are also grateful. No matter how long or how late the Commission sat the transcript of each day's evidence was available to us next morning. This greatly facilitated our work.

The work done by The Royal Canadian Mounted Police was up to its usual extremely high standard, and we perhaps do not need to say more than that. But while it might be invidious to mention names, where all were so efficient, we feel that we should say that Inspector Leopold, who was in immediate charge of those assisting this Commission, rendered particularly valuable service.

The work of the Commission proceeded under great pressure, for a period literally day and night, to enable us to complete the Inquiry and to report in as short a time as was possible having regard to the magnitude of the task.

The extreme gravity of the situation disclosed by the documents brought by Gouzenko from the Russian Embassy as well as by his evidence and the other evidence, oral and documentary, placed before us, made it imperative that we should deal with all the many aspects of the matter in

this our Final Report. This accounts for the length of the Report, but we considered it of paramount importance that there should be available for all to read as complete an account as possible of the illegal activities which had already so seriously affected, and were designed even more seriously to affect, the safety and interests of Canada.

All of which is respectfully submitted.

A handwritten signature in cursive script, appearing to read "A. J. A. ...". The signature is written in black ink on a white background.

Commissioner.

A handwritten signature in cursive script, appearing to read "R. H. Keeloy". The signature is written in black ink on a white background.

Commissioner.

APPENDIX A
FIRST INTERIM REPORT

**FIRST INTERIM REPORT OF THE ROYAL COMMISSION TO THE
GOVERNOR GENERAL IN COUNCIL, MARCH 2, 1946**

Ottawa, Ontario,
2nd March, 1946.

YOUR EXCELLENCY:—

Pursuant to Order in Council P.C. 411, dated the 5th day of February, 1946, we have been conducting the investigation thereby provided for, having commenced our sittings on Wednesday, the 13th day of February, 1946. We have now reached a stage in the hearing of evidence which permits us and renders it advisable for us to make an Interim Report.

The evidence establishes that a network of under-cover agents has been organized and developed for the purpose of obtaining secret and confidential information particularly from employees of departments and agencies of the Dominion Government and from an employee of the Office of the High Commissioner for the United Kingdom in Canada. The evidence reveals that these operations were carried on by certain members of the staff of the Soviet Embassy at Ottawa under direct instructions from Moscow. The person directly in charge of these operations was Colonel Zabotin, Military Attaché of the Embassy, who had as his active assistants in this work Lieutenant-Colonel Motinov, Chief Assistant Military Attaché, Lieutenant-Colonel Rogov, Assistant Military Attaché for Air, Major Sokolov, of the staff of the Commercial Counsellor of the Embassy, Lieutenant Angelov, one of the Secretaries of the Military Attaché as well as other members of the staff of the Military Attaché, all of whom, as well as the agents whom they employed in the pursuance of their activities, were, in the interests of secrecy, known by under-cover names. We have noticed that each of the dossiers compiled by the staff of the Military Attaché with respect to the Canadian agents contains this significant question: "Length of time in net." We think that the word "net" well describes the organization set up under development by Colonel Zabotin and his predecessor.

We have had before us a former employee of the Russian Embassy at Ottawa, Igor Gouzenko, the cipher clerk of the Military Attaché, who has described this organization and its functioning, and who has produced original documents, the authenticity of which we accept.

As shown by these documents, the specified tasks committed to Colonel Zabotin were the following:—

- (1) As described in telegrams from "The Director" at Moscow addressed to Colonel Zabotin under his cover name of "Grant", in August, 1945.
 - (a) The technological processes and methods employed by Canadians and the English for the production of explosives and chemical materials.
 - (b) Instructions as to which of the Members of the Staff of the Military Attaché should contact particular Canadian agents and the suggestion of names of persons in the Department of National Defence for Naval Affairs who might act as agents.

- (c) Information as to the transfer of the American troops from Europe to the United States and the Pacific also the Army Headquarters of the 9th Army, the 3rd, 5th, 7th, 13th Army Corps, the 18th Armoured Division, the 2nd, 4th, 8th, 28th, 30th, 44th, 45th, 104th Infantry Divisions and the 13th Tank Division, together with the dates of their moves, the location of the Army Headquarters of the 8th and 16th Armoured Corps, the 29th and 89th Infantry Divisions, the 10th Tank Division and the location of the Brazilian Infantry Division. Whether or not there had been organized a staff for the American Troops in Germany and, if so, its location and the name of the Officer-in-Command.

The location of the 1st Parachute Troops and the plans for their future use.

- (d) Instructions to take measures to obtain particulars as to the materials of which the atomic bomb is composed, its technological process and drawings.

(2) As described in writings under the hands of Zabotin, Motinov and Rogov, during the period March to August, 1945.

- (a) To obtain from the National Research Council models of developed radar sets, photographs, technical data, periodic reports characterizing the radar work carried on by the Council and future developments planned by the Council.
- (b) Particulars of the explosives establishment at Valcartier and its work, including the obtaining of formulas of explosives and samples.
- (c) A full report on the organization and personnel of the National Research Council: "Give more details of organization of Research Council. Manipulate so as to get to their leaders and find out what they do."
- (d) Particular work of specified employees of the Research Council.
- (e) The obtaining of documents from the library of the National Research Council so that they might be photographed, with the expressed intention of ultimately obtaining the whole of the library of the National Research Council.
- (f) Particulars as to the plant at Chalk River, Ontario, and the processing of uranium.
- (g) The obtaining of a sample of uranium 235, with details as to the plant where it is produced.
- (h) Specifications of the electro-projector of the "V" bomb.
- (i) Research work being carried on with relation to explosive materials and artillery.
- (j) The obtaining of material on the American aeroplane radar locator type, navigation periscope.
- (k) A list of the Army Divisions of the Canadian Army which have returned from overseas and the names, or numbers, of the Divisions which have been divided, or re-shaped, or are undergoing re-shaping.
- (l) The number of troops in the Canadian Army in the post-war period, together with the system of its organization.
- (m) Information from the Department of Munitions and Supply of various kinds relating to guns, shells, small arms, ammunition for small arms, arsenals, optical and radio appliances, automobiles and tanks, apparatus for chemical warfare and particulars of plants producing same.
- (n) Information as to electronic shells used by the American Navy.

- (o) To endeavour to keep agents in Government Departments threatened with discharge as a result of shrinkage in size of the Departments, in order to maintain their usefulness for the future.
- (p) Information with regard to depth bombs and double charge shells for cannon.
- (q) Information as to telegrams passing into and out of the Department of External Affairs and the Office of the High Commissioner for the United Kingdom.

It must not be assumed that the above list is exhaustive, but it illustrates the nature of the objective of these operations.

It has been stated to us by Commission Counsel that the method of presentation of the evidence before us is with the object of ultimately establishing the identity of the greatest number of those persons who have acted as agents, but the question of the relative importance of the above subject matters has not been dealt with to an extent where we are yet able to pronounce upon it. To proceed in any other manner might have been prejudicial to the ultimate attainment of the purposes of the investigation.

It has taken considerable time to hear the evidence relating to the general scheme of the operations being carried on, which evidence it was necessary to hear before dealing with the activities of particular agents. The evidence heard so far, however, establishes that four persons, namely,

Mrs. Emma Woikin
Captain Gordon Lunan
Edward Wilfred Mazerall
Miss Kathleen Mary Willsher

all employees of the Dominion Government, except Kathleen Mary Willsher, who is an employee of the Government of the United Kingdom, have communicated directly or indirectly secret and confidential information to representatives of the U.S.S.R. in violation of the provisions of the *Official Secrets Act*, 1939, 3 Geo. VI, Cap. 49.

Emma Woikin

This person was employed as a cipher clerk in the Department of External Affairs, having taken the usual oath of secrecy required in such cases. Taking advantage of the position she occupied, she communicated to Major Sokolov the contents of secret telegrams to which she had access in the course of her duties.

Captain Gordon Lunan

This man, a Captain in the Canadian Army, on loan to the Wartime Information Board, now the Canadian Information Service, was the head of a group of agents acting under the personal direction of Lieutenant-Colonel Rogov. In the course of his own particular duties with the Information Board, no secret information came to him, but he was the intermediary through whom the information furnished by the group reached Rogov, which information was, in our opinion, furnished and transmitted in violation of the statutory provisions already referred to. The members of the group headed by Lunan were scientists employed by the National Research Council and the Department of National Defence, Research Division, and their concern under Lunan, was to obtain for Rogov information on technical matters in connection with the work of those agencies. Some of the information obtained and transmitted to Rogov related to the latest developments in radar. Through this group also secret documents in the library of the National Research Council were handed over.

Edward Wilfred Mazerall

He is an electrical engineer in the National Research Council working in the field of radar, who also had taken an oath of secrecy. He was one of the group headed by Lunan and he furnished to the latter on one occasion, for transmission by the latter, two reports of the National Research Council on certain developments, actual and projected, in the field of radar, at a time when the disclosure of these documents was still unauthorized. The fact that these reports were shortly thereafter presented to the Third Commonwealth and Empire Conference on Radio for Civil Aviation should be considered as an extenuating circumstance in Mazerall's favour.

Kathleen Mary Willsher

She was employed in the Office of the High Commissioner for the United Kingdom as Deputy Registrar, having subscribed to a document in which she acknowledged having read the Official Secrets Act of the United Kingdom. She had access to practically all secret documents in that office and made disclosure of the contents of some secret documents from that office.

In our final report we shall deal more fully with the evidence and our findings with regard to the above named persons. Each of these persons has given evidence before us and has admitted the substance of the above. To each, in accordance with the provisions of Sections 12 and 13 of *The Inquiries Act*, R.S.C., cap. 99, an opportunity was given to have counsel, but none desired to be represented by counsel or to adduce any evidence in addition to his or her own testimony.

We propose from time to time, as circumstances permit, to make further interim reports before reporting finally. We are reporting now with regard to the above named persons as we have concluded our investigation as to their part in the activities mentioned, and we have been assured by Commission Counsel that they have no further evidence to offer which can affect the opinion we have formed on the evidence regarding these persons.

As already pointed out, we have been able to review the complete activities of four only of the agents used by the officers of the Soviet Embassy. The evidence indicates that, in addition, many other agents were active and that information more intrinsically important has been disclosed. We are not, however, as yet in a position to report with regard thereto, as the evidence has not been fully developed.

Respectfully submitted,

(Sgd.) ROBERT TASCHEREAU,
Royal Commissioner.

(Sgd.) R. L. KELLOCK,
Royal Commissioner.

His Excellency,
The Governor General in Council,
Parliament Buildings,
Ottawa.

APPENDIX B
SECOND INTERIM REPORT

SECOND INTERIM REPORT OF THE ROYAL COMMISSION TO THE
GOVERNOR GENERAL IN COUNCIL MARCH 14, 1946

(Made Public March 15, 1946)

Ottawa, Ontario,
14th March, 1946.

YOUR EXCELLENCY:—

Re: *Order in Council P.C. 411*

Since the date of our interim report of the 28th of February last, we have heard a great deal of evidence without as yet having been able to hear all the witnesses whom it will be necessary to hear to complete the investigation with which we have been charged. Forty-eight witnesses have been heard in some forty-four different sittings of evidence which affects an additional number of persons concerning whom we now report.

Dr. Raymond Boyer, Assistant Professor of Chemistry at McGill University, was, since 1940, under an oath of secrecy, engaged in secret research on explosives under the National Research Council, the most important part of which concerned the making, by a process different from that previously employed anywhere else, of the explosive known as R.D.X. While so engaged; *Dr. Boyer* was secretary of a sub-committee of the Associate Committee on Explosives of the National Research Council, which was directly charged with the project. This sub-committee was at first called the Research sub-committee and later the Research and Development sub-committee.

This project, carried on between the years 1940 and 1945, was successful and resulted in the building of a substantial plant in Canada where the product was manufactured in substantial quantities. Large quantities were also manufactured in the United States.

All the reports on the progress of this project were secret reports prepared for the National Research Council and they are still secret, their distribution being limited to a comparatively few persons. Most of these reports were written by *Dr. Boyer* himself.

His name, and the fact that he had disclosed information with regard to this secret project, appear in documents in the Russian Embassy produced before us by the witness *Gouzenko*. We have now heard *Dr. Boyer* and he has told us that commencing early in 1943, and continuing into 1944, he gave, for transmission to the Soviet Union, full information with regard to his work which he himself admits was secret. He said that with this information competent persons would be in a position to design a plant to produce the material in quantity.

Harold Samuel Gerson was employed from January, 1941, to July, 1944, by Allied War Supplies, Limited, a Crown Company incorporated to supervise the construction of facilities for the production of chemicals and explosives, and later the production of these materials. *Gerson* was assistant to the head of the production control department. Following this *Gerson* was employed by the Department of Munitions and Supply until in or about November, 1945, when he became an employee of the War Assets

Corporation, also a Crown Company. In the Department of Munitions and Supply he was Secretary and Chief of the Records Division of the Ammunition Production Branch. While still with Allied War Supplies, Limited, he was on loan to the Department of Munitions and Supply on occasion and, after going to War Assets Corporation, had still some duties to perform in the Department. In connection with all of these positions he was under an oath of secrecy.

In the notebook of Colonel Zabotin there is a page which reads in part:—

“GRAY . . . chief of the branch of the Directorate for procuring war material for the allies. Taken to work on 1.9.42. Works well. Gives material on shells and cannon on photos.”

“GRAY” is the cover name used by the Embassy for Gerson. The material Gerson supplied was not, however, later on limited to photos.

Gouzenko also produced a document from the Embassy in the handwriting of Gerson, as he admits to be a fact, which is a copy of part of a report dealing with the testing of certain projectiles in England by the United Kingdom authorities. These reports were sent regularly to the Canadian authorities from England and were secret documents.

In a telegram of August 25, 1945, from Colonel Zabotin to “The Director” in Moscow it is stated:—

“GRAY was earlier given the task of taking all necessary measures for staying on his old job. At the last contact the latter stated that in the near future great reductions will begin. In the event that it will be impossible to remain on the old job GRAY proposes to form a geological-engineering consultative office in Ottawa. GRAY is a geological engineer by profession and therefore can head this office. The expenses for organizing the office are as follows: rent of premises 600 dollars a year; wages for one clerk, \$1,200 a year; office equipment, \$1,000; payment of GRAY as director—\$4,200 a year; altogether it needs \$7,000 dollars a year. GRAY said that Canada is entering a ‘boom’ period in the mining industry and it is therefore very likely that within two years the office will be in a position to support itself. The initial expenditure of its operation will be returned in the future.

GRAY thinks that it is necessary to begin establishing the office gradually, that is, prior to his completion of the work at the old place. I beg to get your decision.”

In August, 1945, reductions in staff of the Department of Munitions and Supply were being made on an increasing scale and Gerson did discuss with his superior staying on in the Government service. He is an M.Sc. in geology of McGill University and contemplated going into private practice if he could not remain in the Civil Service. The figures mentioned in the telegram, he admits, constitute expenses he would incur in setting up private practice, \$4,200 being his then salary in the Department. Gerson's continuance in the public service was evidently desirable to the U.S.S.R. so as to ensure the continuance of the flow of information from him.

In a further telegram from Moscow, “The Director” telegraphed Colonel Zabotin as follows:—

“In the mail of 23.8.1944 were received from you GRAY's two materials, the monthly reports on the research of technological questions in the field of production of war materials. On the basis of short and unrelated data it is impossible to judge the method and work of the Canadian and English production of explosives, powders and chemical materials. It is therefore desirable to obtain the following information:

1. The method and technological process of the production of munitions, explosives. 2. The formula for plastic explosives, the production of T.H. and H.S. (their composition, purpose and specific qualities). 3. The application of picrite and nitro-guanidine. 4. The technique of producing the capsules of detonators and igniting capsules. Wire to whom do you consider it possible to give the said task.

If BACON still keeps on working in the Artillery Committee, this task should be handed over to him."

Colonel Zabolin replied to this telegram as follows:—

"(1) The tasks will be detailed to GRAY, BACON and the PROFESSOR through DEBOUZ. The PROFESSOR is still on duty away from home. DEBOUZ will meet at the end of the month.

(2) MARTIN received reply from DEKANOZOV with permission to return home. As a result of MARTIN's work at the San Francisco Conference and his sickness about a month, the latter was unable to write all his reports on your task. The question of the current situation in Canada after the elections and the interruption of the class forces in the country, he will write at our place and we will send them to you by courier, while the remaining questions of the task he will write at the centre."

The "PROFESSOR" was the cover name for Dr. Boyer. "BACON" was the cover name for one of the persons detained whom we have not as yet been able to hear, while "DEBOUZ" is the cover name for the intermediary who obtained the information, already referred to, given by Dr. Boyer. "MARTIN" was the cover name of Zheivinov, the head of the Tass agency in Ottawa.

Another telegram from Zabolin to "The Director", bearing date 28.4.44, reads in part as follows:—

"GRAY's wife has relatives in Bukovina and Bucharest. Apart from the relatives she has many acquaintances among doctors and other specialists. Recently GRAY handed DAVIE a reply of the Canadian Red Cross of March, 1942, wherein it is announced that the relatives of GRAY's wife are in their own places, that is in Roumania. GRAY's wife, through GRAY, asks advice as to whether it is possible to send them money or other things.

DAVIE replied that this was a complicated and difficult question, and that he could not promise anything. He suggested he be furnished with addresses and letters from GRAY's wife for these acquaintances. In the letters it could be proposed (that is through GRAY's wife—he will agree to that) that they contact the man who delivers the letter. If you agree to such an idea we shall receive the addresses and letters from the wife of GRAY. Roofs of the doctor and other specialists."

"DAVIE" is the cover name of Major Sokolov. "Roofs" is a cover expression indicating secret activities. Gerson's wife, or her family, he has told us, did receive a letter from the Canadian Red Cross in reply to inquiries made regarding relatives in Europe. The telegram indicates that Mrs. Gerson's acquaintances among professional people in Bukovina and Bucharest might be employed to receive and transmit letters in secret.

Another document produced before us by Gouzenko shows that correspondence on one single subject handed over by Gerson amounted to one hundred and fifty pages.

On all the evidence, including certain admissions made by Gerson himself, it is clearly established that the latter has communicated, over a considerable period, secret information to the representatives of the Soviet Union in violation of the *Official Secrets Act* and we so report.

Squadron Leader Matt Simons Nightingale attended Military School in Mobile, Alabama, and graduated from McGill University in 1928 with the degree of B.Sc. in engineering. He also attended a private course at the same institution on transmission and engineering telephone work, and later was employed as a draughtsman with the Northern Electric Co., a company manufacturing telephone equipment.

In 1928 he joined the Bell Telephone Co. of Canada as telephone transmission engineer, where he remained until 1942, when he enlisted in the R.C.A.F. and was posted to the Branch Land Lines, Technical Section, until the early months of 1945 when he returned to the Bell Telephone Co. of Canada on his discharge.

While in this special branch of the R.C.A.F. he was mainly concerned with land lines communication on both the east and west coasts and also worked on the Gander project, which embodies one of the main systems of communication on the east coast. He acknowledged the secret nature of the duties entrusted to him throughout.

The original telegrams from the Russian Embassy to Moscow give, as to Squadron Leader Nightingale, known in these telegrams under the cover name of "LEADER", items which he admitted having supplied, to wit, his photograph and information as to the nature of his experience with the Bell Telephone Co. and the R.C.A.F. One document from the Embassy reads in part as follows:—

"Squadron Leader

Mat Nantingale, 155 O'Connor St., Apt. 1, Telephone 2-4545. SAM is known to to him as WALTER. The first meeting took place 19.12.44 at 21 o'clock at the house.

Possibilities: 1. Network of Aerodromes in the country (both coasts).

2. Map of the coast.

Prior to the war he worked with the Bell Telephone Co. On 21.1.45 he advised BRENT about his demobilization. He is going to the Bell Company. Next contact on 24.2.45 at 20.30 at the corner of Elgin-Macleod Sts. At the contact on 24.2.45 he gave the address Montreal, 1671 Sherbrooke 57 (51). Telephone 1.1684. Next contact 24.3.45 at 20.30 Metcalfe-Somerset. He will give the coast (RAF) and listening-in on the telephone.

Task—1. Recruiting (call-up).

2. Materials of the company.

3. DUBOX—GINI—how."

"BRENT" is the cover name for Lieutenant-Colonel Rogov. "Dubox" means a hiding place. "GINI" is a cover name for an individual.

Heard as a witness, Nightingale said that after meeting Lieutenant-Colonel Rogov by accident on a train between Ottawa and Montreal he had several meetings with Rogov at his own apartment and on the street in Ottawa and Montreal and in Rogov's room in Montreal on one occasion. In these conversations he says various subjects were referred to in a general way amongst which were the following, namely, listening-in telephonic devices, linking up of airports, land lines communications, network and location of aerodromes, maps of the R.C.A.F., possibly, the Gander project, some of which matters were of a secret nature.

His interview with Rogov, his explanation of those interviews which we are unable to accept, his association with other persons involved in the matter which is the subject of the present investigation, the references to him in the documents found in the Russian Embassy, as well as the fact that documents of a secret nature belonging to the R.C.A.F. which he should not have retained were found in his possession after his

discharge, suggest to us that, if he did not in fact give to the U.S.S.R. secret and confidential information, he may very well have conspired to furnish such information. Furthermore, his unauthorized retention of the above mentioned documents would appear to have been in violation of the provisions of the *Official Secrets Act*.

Dr. David Shugar is a Ph.D. in physics, McGill University, having been born in Poland in 1915. From January, 1941, until February, 1944, he was employed at Research Enterprises, Limited, Toronto, when he entered the Navy, becoming a Lieutenant in the Directorate of Electrical Supply. He remained in the Navy until his discharge January 31, 1946. Subsequently he was employed in the Department of Health and Welfare. While in the Navy, Shugar was engaged in research with respect to certain equipment used in anti-submarine detection. In the course of his duties he had to visit various naval establishments, including laboratories, in Canada, the United States and the United Kingdom.

Although Gouzenko had never seen him, he knew who Shugar was and the work in which he was employed. In a document produced by Gouzenko headed "Assignment No. 1, SAM to SHUGAR" outlining information desired from Shugar, seven subjects of inquiry relating to anti-submarine detection are laid down, all of which information, Shugar has told us, was either in his possession in connection with his work, or accessible to him at Naval Headquarters.

In a later document headed "Task No. 2" assigned to the same agent, the following item appears:—

"Communicate how the matter stands of the former assignment for Lieutenant Shugar."

The answer made by the agent to Rogov is indicated by what Rogov wrote on the document against the above item, namely,

"At the present time he is working maritime staff. He has consented to work for us but with special caution. He has been under observation."

SHUGAR admitted having met the agent to whom we have referred above on at least three occasions, and that the agent was inquisitive.

A telegram from Colonel Zabotin to Moscow, No. 232, reads in part as follows:—

"We have agreed with SAM about the transfer of connections to us with PROMETHEUS. The latter is at present in Florida. The transfer will take place in the town of SAM. I consider it expedient to give BRENT the connection with PROMETHEUS. SAM promised to give us several officers from central headquarters of the active forces. At the present time it is fairly difficult to do this, as changes in the staffs are taking place by officers returning from overseas."

"PROMETHEUS" is the cover name used to denote Shugar and "BRENT" was Rogov. In reply the "Director" telegraphed to Zabotin:—

"To Grant,

Your telegram 232

(1) In my telegram of 19.7, I have advised that until the information is received from PROMETHEUS and until his possibilities in the Navy Department are established, contact with him should be maintained through FRANK. Should it prove that PROMETHEUS is a truly valuable man to us, direct contact may then be established with him. However, it is not desirable to entrust BRENT with making the contact. If you should find no objection, it is better to let CHESTER make this contact. Have

in mind that we have here almost no other information on PROMETHEUS except his family name and his place of employment.

Wire in full his name and family name, his position in the Navy Department and the address of his residence. Collect the remaining data and send by mail.

(2) As for obtaining persons from the said departmental services, we are interested. Let FRANK, after the staffs have been set up, recommend one or two candidates for our consideration."

"CHESTER" was the cover name for Captain Gorshkov who acted as chauffeur for the Soviet Military Attaché in Ottawa.

Shugar denies having given, or having agreed to give any secret information, but has no explanation for the existence, in the documents above referred to, of the references to himself. We were not impressed by the demeanour of Shugar, or by his denials, which we do not accept. In our view we think he knows more than he was prepared to disclose. Therefore, there would seem to be no answer on the evidence before us, to a charge of conspiring to communicate secret information to an agent of the U.S.S.R.

These four persons are or were all government officials, or persons holding positions of trust. All have been heard before us as witnesses and, in accordance with Sections 12 and 13 of *The Inquiries Act*, Cap. 99, R.S.C. 1927, have been offered the opportunity of having counsel. Two of them declined and two others, after consultation with counsel, stated that they did not wish to call evidence or to have representations made to the Commission by counsel on their behalf. Accordingly we have been free to report with regard to them as above.

We may also point out that under Order in Council P.C. 411, which is our authority for the present inquiry we are required to report not only "upon which public officials and other persons in trust or otherwise have communicated, directly or indirectly, secret and confidential information", but also upon "the facts relating to and the circumstances surrounding such communications".

The evidence discloses that one of these circumstances is that other Canadians, who are not government officials, have been the intermediaries through whom secret and confidential information has reached the Russian Embassy, as in the case of Dr. Raymond Boyer. As the evidence develops, we shall be in a better position to deal with these intermediaries at a later stage.

In conclusion, we may add that we regret not having been able to complete as yet the hearing of evidence with regard to the five other persons who are detained under the provisions of Order in Council P.C. 6444, passed on October 6, 1945, but we hope that we will be able to do so shortly. On February 14 last we concurred in the advice given by counsel for the Commission to the Honourable the Minister of Justice that certain named persons should be detained, and we did so because of the serious nature of the disclosures then indicated by the evidence we had heard, and the fact that cover names of persons who had not been identified appeared in the evidence which indicated that the ramifications of the disloyal practices and the persons engaged therein might be even greater than then appeared and might well be continuing. In effect the matters with which the inquiry was concerned appeared to us to be of so serious a nature from the national standpoint that we believed the course advised by counsel should be pursued in the exceptional circumstances existing. The further evidence which we have heard has not caused us to change this view but, on the contrary, has confirmed it.

In a case of this nature where the evidence has revealed the existence of an organization constituting at least a threat to the safety and interests of the state, as evidenced by the fact that some witnesses holding strategic positions have made the significant statement under oath that they had a loyalty which took priority over the loyalty owed by them to their own country, and for that reason they acted as they did, and would unquestionably have continued so to act had they not been detected, we are of opinion that should these persons be allowed communication with outsiders or between themselves until their activities have been fully investigated, some of the basic purposes of this inquiry would be entirely defeated.

Respectfully submitted,

(Sgd.) ROBERT TASCHEREAU,
Royal Commissioner.

(Sgd.) R. L. KELLOCK,
Royal Commissioner.

His Excellency,
The Governor General in Council,
OTTAWA.

APPENDIX C
THIRD INTERIM REPORT

**THIRD INTERIM REPORT OF THE ROYAL COMMISSION TO THE
GOVERNOR IN COUNCIL**

(Made public March 29, 1946)

OTTAWA, Ontario,
March 29th, 1946.

YOUR EXCELLENCY:—

Re: *Order in Council P.C. 411*

We desire further to report as follows:—

Eric Adams entered McGill University in 1925, graduated in engineering in 1929, and obtained the degree of Master of Business Administration at Harvard in 1931. His first employment was with the advertising agency of Cockfield, Brown and Company, of Montreal. In 1934 he made, as a tourist, an extended trip to Russia, and, after having occupied several positions in Canada, in 1936 he went to the United States for three years, where he was employed as an engineer with Coverdale and Colpitts in New York. In 1940 he joined the Wartime Requirements Board, in 1941 the Foreign Exchange Control Board, in 1944 the Bank of Canada, all in Ottawa, and in 1945 the Industrial Development Bank with residence in Montreal. While occupying these various positions of trust, he was a member of several committees and secretary of the Main Examining Committee of the Inventions Board during the war.

Documents coming from the Russian Embassy show that Eric Adams was known under the cover name of "ERNST". He is referred to as follows in a document written in Colonel Zabotin's handwriting:—

"He gives detailed information about all kinds of industries, plans for the future. Supplies detailed accounts of sessions. Gives materials daily. Good worker.

He is connected with Foster. Both live in Ottawa. Taken to work at the end of January."

In a mailing list sent by Zabotin to Moscow on the 5th of January, 1945, he is credited with having furnished the following information:—

Name		Material	Date
ERNST	Review	Despatch of Munitions to England	November
"	"	"	"
"	"	"	"
"	"	"	"
"	"	Central Branch	July-September
"	Copy	Invention of Waterproofing (Page 5 of original)	8-12-44
"	Manuscript	Notes on the conference	20-12-44
"	Copy	Central Branch	Sept.-October
"	"	Unloading of m. stor. for month of November	14-12-44

<i>Name</i>		<i>Material</i>	<i>Date</i>
ERNST	Copy	Report of 24-11-44	24-11-44
"	"	Inspection Br.	2-12-44
"	"	Inspection Br.	28-11-44
"	"	Inspection Br.	2-12-44
"	"	Correspondence about contracts	12-12-44
"	"	Correspondence with companies	December
"	"	Corrections	"
"	"	Correspondence with companies	"
"	"	"	"
"	"	"	"
"	"	"	"
"	"	"	"
"	"	"	"
"	"	(Page 6 of original)	"
"	"	Enquiries	"
"	"	"	"
"	"	Correspondence	"

the whole comprising a total of 203 pages.

This list cannot be considered as exhaustive of the information furnished by him, for he appears to have been quite active while in Ottawa, and also after the 1st of January, 1945, when he joined the Industrial Development Bank in Montreal. Miss Willsher has stated before us, very frankly we think, that he asked information about her work at the British High Commissioner's Office, which she gave, not only while he was in Ottawa, in 1942 and 1943 and 1944, but also in 1945.

For that purpose he made special trips to Ottawa in 1945, the contacts being arranged through an intermediary, and the meetings taking place at pre-arranged places, or in his automobile when the information was given. In one instance Adams gave Miss Willsher \$25.00 for the purpose of going to Montreal.

Adams has been called by Miss Willsher the leader of an Ottawa group, and it was to him naturally that the information should be given,—

“in the interest of the Communist Party”

when they met with others of the group to discuss the—“theory and practice of socialism and communism and the party program.” These meetings were the occasions when she would convey information to Adams.

When confronted with the evidence given by Miss Willsher, Adams gave evasive answers, stating that his questions had been misconstrued by Miss Willsher. He professed throughout his evidence to having a poor memory and attributed to it his hesitancy in answering very many questions. He made no clear denial of the evidence given by Miss Willsher, taking refuge in his professed view that she had misinterpreted the situation.

Adams' conduct and associations with Soviet agents, his personal sympathies dating back at least to 1935 which made him easily receptive to the suggestions of Messrs. Zabotin and Rogov, his endeavours to obtain information of a secret nature, which turned out in many instances to be fruitful, as evidenced by the testimony of Miss Willsher, and the documents from the Embassy, leave little doubt in our minds that he

has conspired to commit offences in violation of the *Official Secrets Act*, and that he has also committed the substantive offences of obtaining for the benefit of a foreign power, secret information, and of inciting others to commit such offence.

Israel Halperin, of Russian descent, was born in 1911. He is 35 years old and is a professor of mathematics at Queens University, Kingston, Ontario.

At the Russian Embassy, he was known as "Bacon", and formed part of the group which was to operate under the direction of Captain Gordon Lunan. In the original assignment given to Lunan by Lieutenant-Colonel Rogov, it was Lunan's duty to obtain from Halperin information concerning "Valcartier" and "the formulas of explosives and samples".

Halperin joined the army in 1942. In 1943 he was attached to the Directorate of artillery, became a Captain in 1944 and a Major in 1945. In that branch of the army, he worked on a considerable number of secret projects, some of which were so important that they were known, even amongst the few who were aware of them, under code names. In his position he had access to all the files and documents concerning explosives and weapons and all the new discoveries made available to the artillery.

Lunan contacted Halperin several times and reported in writing to the Embassy the results of his conversations. At first, according to Lunan, Halperin did not seem sufficiently impressed with the "conspiratorial" nature of the work, but later gave the information asked for including information on the Canadian Army Research and Development Establishment, called C.A.R.D.E. and the various plants and laboratories that would be operated by this organization. This included information about the Pilot Explosive Plant, the Ballistics Laboratory, the Designs Branch and the Field Trials Wing. He emphasized the work done at the Ballistics Laboratory, with particulars as to new explosives. This latter information conveyed to Lunan by Halperin was of a highly secret nature.

Another assignment given to Lunan by the Russian organization was to obtain information through Halperin on the "electro-projector", which was at that time a fuse newly developed by British and Canadian scientists and manufactured by the Americans. Halperin promised to comply with the request made to him, and later informed Lunan of the existence of this new projectile and the general principles of its operation. This device, developed by co-operation between the United Kingdom, the United States and Canada, was one of the most devastating projectiles used in the Japanese war, and is of such a secret nature that we have been asked by the military authorities not to report with more particularity than as above.

Halperin had associations with other persons involved in the agency organization. He was known to many of them and kept in a pocket book the telephone numbers of Adams, Boyer, Nightingale, Rose, Shugar and Poland. When Lunan received his first assignment to contact Halperin he did not know him, but it is a significant fact that, on the document written by Rogov, Halperin's name appeared—he was already known at the Embassy.

When Halperin appeared before the Commission, assisted by Counsel, full opportunity was given him to explain all this direct and circumstantial evidence against him, but his refusal to furnish any explanation and his general demeanour, fully convince us that he violated the *Official Secrets Act* on more than one occasion.

Durnford Smith is a member of the microwave section of the Radio Branch of the National Research Council. He is an honour graduate of McGill University in mathematics and physics and holds his Master's degree obtained for work in connection with radio-activity. In 1936 he applied for a post in the National Research Council, but not until 1942 was he finally successful in obtaining a temporary position as Junior Research Engineer in the radio laboratory. On January 12, 1946, he was engaged for a three year term. Before entering the employ of the National Research Council he was with the Bell Telephone Company for some five years. His work in the Council was secret and on his appointment he took the usual oath of secrecy.

Smith, as the evidence shows, was one of the group of agents reporting through Lunan to Lieutenant-Colonel Rogov. He was referred to in the Embassy records under the cover name of "BADEAU". In July, 1945, he was brought into direct contact with Rogov. Smith did not admit participation, but a great deal of the evidence he would not deny. From the Embassy two documents, one of them containing notes, formulae and drawings, established to be in the handwriting of Smith, were produced by Gouzenko. The handwriting of these, Smith says, is "like" his. He had no explanation for the presence of the documents in the Embassy. He himself furnished to the Embassy his picture and biographical material for its dossier on him.

Certain definite tasks were assigned to Smith from time to time. As an example, on August 6, 1945, the following memorandum was given to him:—

"ASSIGNMENT FOR BADEAU, NUMBER 3

Given through Back 6-8-45

Obtain the following literature for photographing: GL 14003, Som. 14032, A.S.V. 14040,B and N.S. 13960.

NOTE: If the special material is bulky or if it is not convenient to take such a number of books, then the given number can be reduced at your discretion, but everything must be very careful.

P.S. After reading burn."

The numbers are the numbers of secret documents in the Radio Branch of the National Research Council.

Between August 8th and 22nd, Smith drew from this library ten documents and he had previously drawn fifteen others. All of these remained in his possession till after August 26th. Included in those drawn by him on August 20th were Nos. 14003 and 14032.

Colonel Rogov's notebook contains the following entry:—

"3. 25-8-45 Regular (meeting), everything normal. Handed over a large quantity of radio literature and various reports, all told about ten books. He gave notice that he was going on a two-weeks' vacation. Was given the assignment on radio material and other things. (See assignment No. 4). The meeting to return the material will be on 26-8-45 on the corner of Osgoode and Cumberland at 22.00".

There was an awful rain. He came, however, gave notice that in future he would not come during such kind of weather—not naturally.

The evidence shows that on the evening of August 25th, the heaviest rain of the month occurred; Smith himself admits that at that date he was looking forward to his vacation shortly thereafter.

On August 17th, Zabolin wired the "DIRECTOR" in Moscow as follows:—

"We have received from BADEAU 17 absolutely secret and secret documents (British, American and Canadian) on the question of magnet, radio-locators for field artillery, three secret scientific research journals of 1945. Altogether about 700 pages. In the course of the day we were able to photograph all the documents with the help of the Leica and the photofilter. In the next few days we will receive almost the same amount of documents for 3 to 5 hours and with one film we will not be able to do it. I consider it necessary to examine the whole of the library of the Scientific Research Council.

Your silence on My No. 156 may disrupt our work on photographing the materials. All materials have been sent by mail in turn."

The Embassy records show that these documents were returned to Smith on August 16th.

The "library of the Scientific Research Council" mentioned in the above telegram, is not, as may well be imagined, the library of that body which is open to members of the public, but the library of secret documents kept in the various branches of the Council and notably in the Radio Branch.

We are satisfied on all the evidence, documentary and otherwise, including the evidence of Lunan and Mazerall, as well as the evidence of Smith himself, that Smith was an active agent of the Embassy.

J. S. Benning became an employee of the Department of Munitions and Supply in July, 1942, and was placed in the Ammunition Production Branch. Prior to that for a short time he had been with Allied War Supplies Corporation, a Crown company. In both these positions he took an oath of secrecy. Later in his employment he was transferred to the Economics and Statistics Branch of the Department. In April, 1945, he went to the Department of Reconstruction where he became Assistant Secretary and later Secretary of the Depreciation Committee. While in the Department of Munitions and Supply he was Joint Secretary of the Canadian Munitions Assignment Committee.

On the mailing list for one day, January 5, 1945, which details documents mailed by the Embassy to Moscow on that day, "FOSTER" is credited as being the source of supply of seventy separate documents. It has not been possible to identify each of these documents from the descriptions given in the mailing list but more than half of this material may be identified either in particular or generally. The evidence establishes that Benning, whose cover name, according to Gouzenko, was "FOSTER", had to do with this material in connection with his work or was in a position where it was possible for him to have access to such material either by himself or through Gerson, who was his brother-in-law.

Three items on the mailing list may be referred to:—

"No.	Name	Material	Date
155	FOSTER	North Amer. Comm. Report of of Coordin. 23.11.44	
156	FOSTER	D.M. and S. Report of 24.11.44	
157	FOSTER	North Amer. Com- mittee Notes and Report	23.11.44"

There was put in evidence before us the minutes of a meeting of the North American Co-ordinating Committee of the Joint Gun Ammunition Production Committee held November 23, 1944, and minutes of the same committee of November 24, 1944. These proceedings were secret. H. S. Gerson was the Secretary of these meetings and Benning says that the minutes of this Committee came to him in the Economics and Statistics Branch.

In a column of the list, not copied in the above, it is noted "See who was Secr. Meet." The writer evidently desired to emphasize the source of the material as a guarantee of future supply. For some devious reason it was apparently thought better to have "FOSTER" deliver these documents rather than Gerson himself.

A number of items on the mailing list consists of "corrections" or "supplements" to contracts. Benning was, with others, engaged in preparing quarterly production reports in the Economics and Statistics Division which were amended from time to time on the basis of, including other items, cables from the United Kingdom authorities. Several of these "corrections" on the mailing list coincide in date with the dates of certain of these cables.

The evidence also shows that Benning was in communication with Nightingale, Gerson and Shugar as well as with an intermediary not in the Government service, who was engaged in supplying information to the Russian Embassy.

The *Official Secrets Act*, 1939, Sec. 3 (1) in part is as follows:—

3. (1) "If any person for any purpose prejudicial to the safety or interests of the State,

(b) makes any . . . note which is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power: or

(c) obtains, collects, records, or publishes, or communicates to any other person any secret . . . article, or note, or other document or information which is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power;

he shall be guilty of an offence under this Act.

(2) On a prosecution under this section, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case, or his conduct, or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State;

(3) In any proceedings against a person for an offence under this section, the fact that he has been in communication with, or attempted to communicate with, an agent of a foreign power, whether within or without Canada, shall be evidence that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power.

(4) For the purpose of this section, but without prejudice to the generality of the foregoing provision—

(a) a person shall, unless he proves the contrary, be deemed to have been in communication with an agent of a foreign power if—

(i) he has, either within or without Canada, visited the address of an agent of a foreign power or consorted or associated with such agent; or

- (ii) either within or without Canada, the name or address of, or any other information regarding such an agent has been found in his possession, or has been supplied by him to any other person, or has been obtained by him from any other person;
- (b) the expression 'an agent of a foreign power' includes any person who is or has been or is reasonably suspected of being or having been employed by a foreign power either directly or indirectly for the purpose of committing an act, either within or without Canada, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without Canada, committed, or attempted to commit, such an act in the interests of a foreign power;
- (c) any address, whether within or without Canada, reasonably suspected of being an address used for the receipt of communications intended for an agent of a foreign power, or any address at which such an agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, shall be deemed to be the address of an agent of a foreign power, and communications addressed to such an address to be communications with such an agent."

Benning denied giving any information and denied he was the source of the material credited to "FOSTER" in the mailing list referred to. However, the name and telephone numbers of the intermediary referred to were found in a notebook belonging to him. This intermediary, in our opinion, in the evidence comes clearly within ss. 4 (b). Benning has no explanation of any kind for the presence of the name of this person in his book, although he admits the entries are his.

While Benning was giving evidence as to his work there was no reason for us to think he was speaking other than frankly. Other aspects of his evidence, however, were not as satisfactory and his failure to account for the presence in his book of the information pertaining to the intermediary in question, is, in our view, significant. While there is no direct evidence that he gave information we do not attach any weight to his denial.

Squadron Leader F. W. Poland became in April, 1942, an administrative intelligence officer in the R.C.A.F. in the Directorate of Intelligence, R.C.A.F. Headquarters, Ottawa. As from November 10, 1944, he was seconded to the Armed Forces Section of the Wartime Information Board and from May, 1945, was Executive Secretary of the Psychological Warfare Committee. He sat at all meetings of the Committee, carried out its directions in prisoner of war camps, directives issued by the Political Intelligence Department passed through his hands, and he had access to all documents to which the Committee had access. While in the Directorate of Intelligence he had supervision of security education throughout the R.C.A.F. He drafted orders affecting security information and was secretary of the Security Sub-committee of the Canadian Joint Intelligence Committee, which in turn, was a sub-committee of the Chiefs of Staff. He was also, for a short time, a member of a committee on the grading of documents from a standpoint of security.

On a page from Col. Zabotin's notebook which Gouzenko produced the following appears under the heading:—

"Second Group (Ottawa-Toronto)

3. POLLAND. Ministry of Aviation.
Works in Toronto in the Intelligence Branch. He gave a map of the training schools. Up to the present is not working.
4. SURENSEN. He works in the Naval Ministry. He works in Intelligence. Gave materials about construction of ships. Left for Overseas.
Both worked up to April."

Gouzenko testified that in a telegram sent by Zabolin to Moscow in 1943, Zabolin suggested that "POLLAND" be turned over to the N.K.V.D. We have evidence that that organization, the Russian Secret Police, had an organization under its direction working in Canada long before Zabolin arrived in July, 1943. Moscow replied to this telegram that it was not worth while doing so as "POLLAND" might develop into a good worker. Gouzenko was unable to say whether "POLLAND" was a cover name or a real name. The evidence shows that on enlistment in the R.C.A.F. Intelligence Poland was in Toronto in May-June, 1942, and was then transferred to the Directorate of Intelligence, Ottawa. The evidence shows that there was no other person by the name of "Polland" or "Poland" who answers to the above.

There is also other evidence. The names and telephone numbers of Lunan, Nightingale and Pavlov were found entered in the desk telephone directory or desk calendar pad belonging to Poland. The names of Lunan and Nightingale have been mentioned many times. Pavlov is the second secretary and consul of the Russian Embassy and the telephone number in the desk pad is the telephone number of the Embassy on Charlotte Street in Ottawa. Pavlov, according to the evidence of Gouzenko, is one, and perhaps the chief, of the N.K.V.D. men there.

Poland appeared before us with Counsel and refused to be sworn, to answer any questions, or to make any explanation, although offered the opportunity of seeing the evidence referred to above.

Having regard to these circumstances and the provisions of the *Official Secrets Act* cited in dealing with Benning, it would appear to us that Poland has brought himself within those provisions, although so far as the evidence before us goes, the map indicated by Col. Zabolin's notebook would not appear to have been very important; but with information available to Poland it was capable of being made very useful.

There remain a number of witnesses yet to be heard, many of whose names are mentioned in the documents placed before the Commission by Gouzenko. The names of others appear in other documents filed as exhibits, or in the evidence of the various witnesses whom we have heard. With this report we have completed the hearing of the evidence of those persons who were detained under Order in Council P.C. 6444.

Respectfully submitted,

ROBERT TASCHEREAU,
Royal Commissioner.

R. L. KELLOCK,
Royal Commissioner.

His Excellency,
The Governor General in Council,
Ottawa.

APPENDIX D

Facsimile of "Registration Card" in Soviet Embassy dossier for 1945 on Sam Carr, National Organizer of the "Labour Progressive" (Communist) Party of Canada. Translation opposite.

КАРТОЧКА УЧЕТА.

№ _____



1. Фамилия, имя, отчество SAM CARR.

2. Псевдоним "FRANK".

3. С какого времени в сети _____

4. Адрес:
а) Служебный _____

б) Домашний 14 Mountrose, TORONTO. Tel. Ll-7847 (brook).

5. Место работы и должность "РАБОЧЕ-ПРОГР. ПАРТИЯ"-полит. деятель.

6. Материальные условия Материально обеспечен, но деньги берет.

Необходимо иногда помогать.

Биографические данные:

Подробный материал по биографии имеется в ЦЕНТРЕ в КОМИТЕТЕ.
Прекрасно знает РУССКИЙ язык, окончил ЛЕНИНСКУЮ школу в МОСКВЕ.

No. _____

PHOTO
OF
CARR

1. SURNAME, NAME, PATRONYM SAM CARR

2. PSEUDONYM "FRANK".
3. SINCE WHEN IN THE NET _____
4. ADDRESS:
 - a) OFFICE _____
 - b) HOME 14 Moutrose, TORONTO. Tel. L1-7847 (brook).
5. PLACE OF WORK AND POSITION "LABOUR PROGR. PARTY" -
polit. worker
6. FINANCIAL CONDITIONS Financially secure, but takes
money. It is necessary occasionally to help.

BIOGRAPHICAL DATA:

Detailed material on his biography is available in the CENTRE in the COMINTERN. Has an excellent knowledge of the Russian language, he graduated from the LENIN school in Moscow.

APPENDIX E

Facsimile of form headed "Course of Meetings", from Soviet Embassy dossier on Sam Carr. Translation opposite.

КОЛ ВСТРЕЧ.

№ п/п	Содержание встречи	Примечание
1.	<p><u>Срочный вызов Фрэнка (через Доктора):</u></p> <p>а) Звонит по телефону Midway-95-93.</p> <p>б) Брент говорит: "Hello Dr. Henry How are you? How is your wife?"</p> <p>в) Доктор отвечает: "Very well, I shall see you later." Это означает, что встреча состоится на улице <u>Louther and Admiral Rd в 21.00</u></p> <p>Если же доктор ответит: "I am glad to see you again" - это значит, что встреча состоится на всеукраинском митинге и в это же время, но на другом месте.</p>	
2.	<p><u>7.5.45</u> состоялась передача Доктору от Лилиан Бренту. Встреча происходила около замка, все нормально.</p>	
3.	<p><u>15.6.45</u> - состоялась встреча на улице Сомерсет и Кларк (парк). Все нормально. Доктор сообщил, что с намерением не познакомиться из-за отсутствия достояния данных (см. телеграмму от 16.6.45)</p>	<p><u>Выдано:</u> Франку-200р, Доктору-100р. Встреча состоялась через во- юда</p>
4.	<p>Встреча - 17.7.45 } Знакомая - 24.7.45 } <u>t = 21.30</u> Место - у замка.</p>	
4.	<p><u>3.7.45</u> - состоялась срочная встреча по телефону. Здесь же на квартире у доктора, познакомился с Франком. Все нормально (см. телег от 5.7.45)</p> <p>Встреча - 17.7.45 } Знакомая - 24.7.45 } <u>t = 21.30</u> Место - на квартире у доктора.</p>	

COURSE OF MEETINGS

No. P.	No. P.	Substance of the Meetings	Remarks
1.		<p>Urgent call for Frank (through the doctor):</p> <p>a) Ring on the telephone Midway-9593.</p> <p>b) <u>Brent</u> says: "Hallo Dr. Henry. How are you? How is your wife?"</p> <p>c) <u>The Doctor</u> answers: "Very well, I shall see you later." This means, that the meeting shall take place at the corner of <u>Lowther and Admiral Rd. at 21.00</u></p> <p>Should, however, the doctor answer: "I am glad to see you again"—it means, that the meeting shall take place at the above mentioned place and at the same time, <u>but on the next day.</u></p>	
2.		<u>7.5.45</u> The handing over took place of the Doctor from Lamont to Brent. The meeting took place near the hospital, everything was normal.	
3.		<u>15.6.45</u> —The regular meeting took place at the corner of Somerset and the square (Park). Everything was normal. The doctor reported that no progress was made with the passport because of lack of authentic data (see telegram of 16.6.45.)	<p><u>Handed out:</u></p> <p>To Frank— 200 dol.</p> <p>To the Doctor— 100 dol.</p> <p>The meeting took place through the doctor.</p>
4.	<p>Regular meeting—17-7-45 Emergency meeting—24.7.45 The place—by the hospital</p> <p style="text-align: right;">} T = 21.30</p>		
4.	<p><u>3.7.45</u>—An urgent meeting took place with regard to the passport. Also here, in the apartment of the doctor, got acquainted with Frank. Everything was normal (see telegram of 5.7.45)</p> <p style="text-align: right;">Regular meeting—17.7.45 Emergency meeting—24.7.45 } T=21.30</p> <p>The place—in the apartment of the doctor</p>		

APPENDIX F

Facsimile of telegram 11436 from the Director, Moscow, to Colonel Zabotin (cover-name Grant), dated 14th August, 1945. This telegram is in the handwriting of Zabotin's cypher clerk who decyphered the message. It is signed by Zabotin in the lower left-hand corner under his cover-name. Translation opposite.

абзац к н. 11438.

11436

14.8.45

Гранту

Кс. камп. 227

1. Занявшись делом наугени, касательно
Болкоче кельд, по этому поводу на ковер
анкету кусть человек Франк сделал сам.
2. К озерскому поше - подготовке Франк
доклад техники наугени и одержимый
настроений и другой ~~документация~~ документация
для наших целей с указанием кто конкретно со
стороны Франк этим делом будет заниматься.

Ю. С. ЧС. Директор

Абзац Псевдоним "Сэм" давно изменен
на "Франк". Дальнейшая ~~подготовка~~
пользуется последним.

Иванов
14.8.45.

10.8 Директор

Supplement to No. 11438

11436

14.8.45

To Grant.

Reference No. 227.

- 1. There can be no further delay in obtaining the passport. Therefore the signature on the new application form should be made by Frank's man himself.**
- 2. Prepare for the next regular mail a short report on the procedure of obtaining and putting into shape of passports and of the other documentation for our objectives, indicating exactly who on Frank's side will be engaging in this work.**

10.8.45. Director.

Supplement: The pseudonym "Sam" has long ago been changed to "Frank". In the future use the latter.

10.8 Director

Grant

14.8.45

APPENDIX G

Facsimile of "Task No. 2 of 15/6/45", prepared by Colonel Zabotin's staff for assignment to Sam Carr. The marginal notations on the left record Carr's reports on the various orders listed in the body of the assignment. Translation opposite.

ЗАДАНИЕ № 2 от 15.6.45

Задание 1. На основании рапорт составленного
 данных опросившего А. П. Дале
 (англикан); нам известно, что до 1942,
 он работал в индустриале Королев-
 ства в Кембридже. После этого
 он ушел в Канаду в качестве ко-
 мандированного. После отъезда Дале
 в Канаду, получил приглашение от одного
 руководителей связанное с работой
 Королевства.

В настоящее время мы хотим по-
 знать опросившего Дале более
 подробно, а поэтому к следствию
 прилагаю (15.7.45) неопубликованный
 рапорт с именным указом следствия
 следствию прилагаю:

а. Действительно ли Дале работает
 в индустриале Королевства в
 Кембридже и имеет ли какие-то
 отношения к индустриалу (представителю) в
 Канаде к его службе в Канаде.

б. Если эти данные подтверждаются,
 то необходимо его связать
 на английском языке и по возможности
 ему лично сообще, что он
 сам Дале хотел.

2. ЗМ
 Карр сообщил о том, что он не знает
 ничего о Дале, но знает, что он
 работал в Канаде в индустриале
 Королевства в Кембридже.
 Карр сообщил о том, что он не знает
 ничего о Дале, но знает, что он
 работал в Канаде в индустриале
 Королевства в Кембридже.
 Карр сообщил о том, что он не знает
 ничего о Дале, но знает, что он
 работал в Канаде в индустриале
 Королевства в Кембридже.

TASK NO 2 of "15.6.45"

FRANK:

2 copies

Assigned

15.6.45

At present he works in the capacity of a scientist in the Naval Staff. Agreed to work.

The details will be cleared up through the engineer Chub—chemist, a friend of Sam, and also by Debouz, both of them along trade-union lines.

1. On the ground of data previously communicated with respect to A. N. Veale (an Englishman), it is known to us that up to 1942 he worked in the meteo-service of the Royal Air Force in Cambridge. Following this he went to Canada on a scientific mission. Before leaving Veale ~~received~~ allegedly received instructions from his director to get in touch with your corporation.

At present he would like to know more details about Veale and therefore it is desired that for the forthcoming meeting (15.7.45) you should in written form enlighten us on the following questions:

- a. Did Veale really work in the meteo-service of the Royal Air Force in Cambridge and has his mission (stay) in Canada a direct connection with his service in England.
- b. If these facts are confirmed, you should try to draw ~~him~~ Veale into a frank discussion and ~~put~~ put the question straight to him, what he wants from you.

с) Если же в процессе работы
 Басе сошлется на свои карто-
 графическую или магнитную и на
 указания связаться с ее
 филиалом в каком-либо городе с ка-
 нальной картой, или, если
 не будет возможности, то и только,
 Конкретный указание + эти указания.

д) Имя и фамилия от Басе
 не берите и не надо и не надо
 не указывать в каких-либо
 документах.

Наши все время
 работаем регулярно и
 стараемся улучшить
 тем как работать, но
 при этом стараемся
 не отставать от
 других. Мы все делаем

Сообщите как обстоит дело
 с вышеуказанными ранее местами.
 Как идет у вас митинг
 в этих местах.

из которого
 вы знаете
 что-то
 о работе
 в этих
 местах

3. Как обстоит дело с канцелярией
 Готхелл (Кингстон), где вы сейчас
 находитесь и можете ли воспользо-
 ваться его услугами в
 нашей работе.

He was transferred from the college to a training unit in Brit. Columbia for political considerations. He now is in the stage of demobilization.

He works at present in the Naval Staff. He agreed to work for us but with special precautions. He has been under observation.

- c. However, should Veale in the course of the conversation refer to his corporation membership and to the instructions of his director in England to get connected with the Canadian Corporation, then let him give the name of the person who gave him these instructions.
 - d. Do not take from Veale any material and do not show any interest in any information whatever.
2. Inform us where does the matter stand in the execution of the previously assigned tasks for Lieutenant Shugar.
 3. How does the matter stand with Captain Gothell (Kingston), where is he at present and are there possibilities to use him in our work.

Все бурьи выделено в
мил. акучене, и. и в изобилие
бурьи изобилие земли
шаров производим.

4. Изменяется м. у. как возможности
для разветвления трассы; а вот
в минимальные нас. обзора,
и минимальные размеры,
и минимальные волны. м.
своего значения или же и и к ката-
бах.

В настоящее время бурья
эти обилие очень сильно
судит и мы хотим что бы
судили максимальные умения
к этому вопросу.

- P. S. : 1. ^{в том же месте} Водяная ветвь 17. 7. 45
 Знаменая 24. 7. 45 в 9. 30 ^{в том же месте}
 (на том же месте (около вс-
тад). докум. 4 гидро.)
 2. Поем. прох лет до ж. и.
ме.

Everything shall be clarified in July-August, for at the present time the staffs are being replaced by front line men.

4. Is there any possibility for you of developing our work in the Ministry of National Defense, in the Ministry for Air, in the Ministry of the Navy or else in their military staffs.

At the present time these fields are of great interest to us and we want you to put forth maximum efforts in this matter.

- P.S.:
1. Regular meeting in your city on 17.7.45.
Emergency meeting 24.7.45 at 9.30 in the evening in your city in the same place (near the hospital), the doctor knows.
 2. After reading through, burn.

APPENDIX H

Facsimile of first of six pages of one of Zabotin's mailing lists recording material collected by his espionage agents and sent to Moscow in January, 1945. On the original, the column headings and head of the lists are in mimeographed form. The items are typed in and the date written by hand.

Translation opposite.

О П И С Ь

материалов отправленных в адрес Директора

Л. Зубаре (5) 1944 года.

№-п.п.	Источник	Откуда и при каких обстоятельствах, материал добыт.	Название материала.	Дата и №	Кол-во листов	Григ
1.	2	3	4	5	6	7
105	Григ	Из Департ. вооружения и снабж. арм. инж. отдел.	Чертеж	3.11.44	1	б-гг
106	"	"	"	б.д.	1	"
107	"	Р у к о п и с ь .	Заметки к "	б.д.	2	"
108	Дебоуз	З а п и с и .	Беседа с професс. рез. секр. сессии, парламента.	б.д.	1	"
109	Эли	К о п и я .	Письмо Уилгресса Кингу.	№-386 от 3.11.44	2	Сек
110	"	Сокращенная копия.	"	№-351 от 1.10.44	1	Сек
111	Фостер	Р у к о п и с ь .	Канадско-Британские отношения.	4.XII.44	3	б.гг
112	"	"	Продукция Сам.	Окт. 1944	2	-
113	Фостер	Р у к о п и с ь .	Продукция кораб.	" 1944	5	б.гг
114	"	К о п и я .	Телегр. №-2151	29.11.44	5	-
115	"	Документ.	Арм. комис. заказ.	30.XI.44	9	Сек
116	"	"	Доклад.	30.11.44	4	"
117	"	К о п и я .	Переп. с компан.	29.11.44	4	б.гг
118	"	"	Исправления.	30.11.44	3	-
119	"	Департ. воор. и снабж.	Контракты.	21.11.44	2	-
120	"	"	Испр. контрактов.	Ноябр. 44	18	-
121	"	К о п и я .	Замеч. к контр.	28.11.44	1	Зар.
122	"	"	Переп. с компан.	24.11.44	9	б.гг
123	"	Деп. вооруж. и снабжения	"	15.11.44	2	"

LIST
OF THE MATERIALS SENT TO THE ADDRESS OF THE DIRECTOR
in January (5) 1944

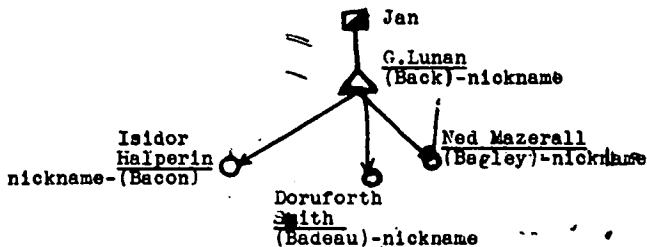
Nos. P.P.	Source	From where and under what circumstances the material was obtained.	Designation of the Material	Date and Number	Number of pages	Marked
1	2	3	4	5	6	7
105	Green	From Dept. of Munitions and Supply Army Eng. Div.	Plan	3.11.44	1	none
106	Green	From Dept. of Munitions and Supply Army Eng. Div.	Plan	no date	1	none
107	Green	Manuscript	Notes on Plan	no date	2	none
108	Debouz	Notes	Conversation with Profess. decisions secr. session of Parliament	no date	1	none
109	Ellie	Copy	Letter of Wilgress to King No. 386	3.11.44	2	Secr.
110	Ellie	Abbreviated copy	Letter of Wilgress to King No. 351	11.10.44	1	Secr.
111	Foster	Manuscript	Canadian-British relations	4.12.44	3	none
112	Foster	Manuscript	Production of aeroplanes	Oct.1944	2	—
113	Foster	Manuscript	Production of ships	Oct.1944	5	none
114	Foster	Copy	Telegram No. 2151	29.11.44	5	—
115	Foster	Document	Arm. Comis. orders	20.11.44	9	Secr.
116	Foster	Document	Report	30.11.44	4	Secr.
117	Foster	Copies	Correspond. with Compan. Corrections	29.11.44	4	none
118	Foster	Copies	Corrections	20.11.44	3	—
119	Foster	Dept. Munitions and Supp.	Contracts	21.11.44	2	—
120	Foster	Dept. Munitions and Supp.	Correct. of contracts	Nov.1944	13	—
121	Foster	Copy	Notes to contr.	28.11.44	1	Reg.
122	Foster		Correspond. with compan.	24.11.44	9	none
123	Foster	Dept. Munitions and Supp.	Correspond. with compan.	15.11.44	2	none

APPENDIX I

Facsimile of the first task as prepared by Lt.-Col. Rogov and kept in the files of the Soviet Military Attaché's office. In the spring of 1945, Lunan received his copy in English and burned it as instructed.

СХЕМА ГРУППЫ "РЕЦЕПТ".

1. The scheme of your group will be approximately such as it is shown below



You only will know me (as Jan) out nobody else.

2. What we would like you to do:
- a. To characterize the scales and works carrying out at National Research and also the scheme of this Department.
 - b. To conduct the work of "Bacon", "Badeau", and "Bagley".

It is advisable to put the following tasks to them separately:

Bagley- to give the models of developed radio-sets, its photographs, technical (data) facts and for what purpose it is intended. Once in three month to write the reports in which to characterize the work of Radio Department, to inform about the forthcoming tasks and what new kinds of the models are going to be developed.

Bacon- to give the organization and characters of Valcartier Explosives Establishment's Direction. To write the report on subject: "what kind of the work is this organization engaged in?" If possible to pass on the prescriptions (formulas) of explosives and its samples.

Badeau- to write the report: What kind of the work is his Department engaged in and what Departments it is in contact with (by work).

All the materials and documents to be passed by Bagley, Bacon, and Badeau have to be signed by their nicknames as stated above.

If your group have the documents which you will not be able to give us irrevocably, we shall photograph them and return back to you.

I beg you to instruct every man separately about conspiracy in our work.

In order not to keep their materials (documents) at your place, it is advisable that you receive all their materials (documents) the same day you have the meeting with me.

To answer all the above questions we shall have the meeting on March 28.

J.

P.S. After studying burn it. /

APPENDIX J

ALPHABETICAL KEY TO COVER-NAMES

COVER-NAME	IDENTITY
<i>Albert</i>	A. Soviet agent in Switzerland.
<i>Alek</i>	Dr. Allan Nunn May, a British nuclear physicist.
<i>Back</i>	David Gordon Lunan, Editor, " <i>Canadian Affairs</i> "
<i>Bacon</i>	Israel Halperin, Professor of Mathematics, Queens University, Kingston; formerly Major, Directorate of Artillery.
<i>Badeau</i>	P. Durnford Pemberton Smith, National Research Council, Ottawa.
<i>Bagley</i>	Edward Mazerall, National Research Council, Ottawa.
<i>Baxter</i>	Lieutenant Angelov, Assistant to Soviet Military Attaché, Ottawa.
<i>Berger</i>	Arthur Steinberg, an American scientist.
<i>Berman</i>	Samuel Sol Burman, insurance salesman, formerly Major in Canadian Army.
<i>Brent</i>	Major Rogov, Soviet Embassy.
<i>Butler</i>	Lieutenant Koulakov, Soviet Military Attaché's new cipher clerk, Ottawa.
<i>Chester</i>	Captain Gorshkov, "Chauffeur" to Soviet Military Attaché, Ottawa.
<i>Chub</i>	Frank Chubb, a Canadian chemist.
<i>The Commander</i>	Colonel Milstein, alias Milsky, of Red Army Intelligence Headquarters.
<i>Corporation</i>	Communist Party of any country except the U.S.S.R.
<i>Corporant</i>	Member of Communist Party.
<i>Corporator</i>	Member of Communist Party.
<i>Davie, Davy</i>	Major Sokolov, of Commercial Section, Soviet Embassy.
<i>Deboise, Debouz</i>	Fred Rose, M.P., Quebec Organiser, "Labour-Progressive" (Communist) Party of Canada.

COVER-NAME	IDENTITY
<i>Dick</i>	A Canadian Colonel.
<i>Dubok</i>	Cover name used for any hiding place.
<i>The Economist</i>	Krotov, Soviet Commercial Attaché, Ottawa.
<i>Elli</i>	Kathleen Willsher, Assistant Registrar, Office of United Kingdom High Commissioner, Ottawa.
<i>Eric</i>	Eric Adams, Bank of Canada, etc., Ottawa and Montreal.
<i>Ernst</i>	Eric Adams, Bank of Canada, etc., Ottawa and Montreal.
<i>Foster</i>	James Scotland Benning, Department of Munitions and Supply, Ottawa.
<i>Frank, also Sam</i>	Sam Carr, National Organizer, "Labour-Progressive" (Communist) Party of Canada.
<i>Fred, also Debouz</i>	Fred Rose, M.P.
<i>Freda</i>	Freda Linton (Lipchitz), a secretary, formerly with National Film Board, Ottawa.
<i>Galya</i>	Unidentified espionage "contact" in Montreal.
<i>Gini</i>	Unidentified espionage assistant in Montreal.
<i>Gisel</i>	Soviet Military Intelligence Service.
<i>Gisel's parents, or Gisel's family</i>	Members of Soviet Military Intelligence Service.
<i>Golia</i>	Unidentified "Mail Drop" and contact in Montreal.
<i>Grant</i>	Colonel Zabotin, Soviet Military Attaché, Ottawa.
<i>Gray</i>	Harold Samuel Gerson, Department of Munitions and Supply, Ottawa.
<i>Green</i>	Unidentified Soviet agent in Montreal.
<i>Helmars</i>	William Helbein, New York.
<i>Henry</i>	Lt. Gouseev, "doorman" attached to Soviet Military Attaché's staff in Ottawa.
<i>Jack</i>	A Canadian Colonel.

COVER-NAME	IDENTITY
<i>Jan</i>	Major Rogov, of Soviet Embassy, Ottawa, so known to D. G. Lunan.
<i>Lamont</i>	Lt. Col. Motinov, Soviet Embassy, Ottawa.
<i>Leader</i>	Squadron Leader M. S. Nightingale, of R.C.A.F. and Bell Telephone Co., Montreal.
<i>Leon</i>	Sergei N. Koudriavtzev, First Secretary of Soviet Embassy, Ottawa.
<i>Lesovia</i>	Canada.
<i>Lucy</i>	A Soviet agent in Geneva.
<i>Martin</i>	Zheveinov, TASS Correspondent, Ottawa.
<i>Metro</i>	The Embassy of the U.S.S.R.
<i>Molier</i>	Mickhailov—An official of the Soviet Consulate, New York.
<i>Neighbour</i>	} N.K.V.D., the Russian secret political police; formerly known as CHEKA and O.G.P.U.
<i>The Neighbours</i>	
<i>Nora</i>	Emma Woikin, cypher clerk, Department of External Affairs, Ottawa.
<i>Paul</i>	A Soviet agent in Switzerland.
<i>The Professor</i>	Professor Raymond Boyer of McGill University, a specialist in explosives.
<i>Prometheus</i>	Lieutenant David Shugar, formerly of the Royal Canadian Navy.
<i>Rachel</i>	A Soviet agent in Switzerland.
<i>Roof</i>	A legal "front" used to cover up illegal activities.
<i>Rumy</i>	Under-Lieutenant Levin, Soviet Embassy, Ottawa.
<i>Sam</i>	Sam Carr, National Organiser, "Labour-Progressive" (Communist) Party of Canada.
<i>Sisi</i>	Rachel D_____, a Soviet agent in Switzerland.
<i>Surensen</i>	Unidentified Soviet agent in Naval Intelligence.
<i>Walter</i>	Sam Carr, so known to M. S. Nightingale.
<i>Znamensky 19</i>	Address—Red Army General Intelligence Headquarters, Moscow.