

February 5, 1947

Rt. Hon. J.L. Ilesley, P.C.,
Minister of Justice,
House of Commons,
Ottawa, Canada.

Dear Mr. Ilesley:

The announcement, in the speech from the throne, that the Government is recommending the appointment of a select committee to consider and report upon "the questions of human rights and fundamental freedoms and the manner in which those obligations accepted by all members of the United Nations may best be implemented" is gratifying to those who are concerned about civil liberties in Canada. We have already sent you (by telegram on January 29th) the text of a resolution passed at a public meeting in Toronto on January 27th sponsored jointly by the Civil Rights Union and the Toronto Civil Liberties Association, urging that a Parliamentary Committee be set up "to investigate violations of civil rights in Canada, to hear representations from individuals and organizations on means of preventing future violations, and to make recommendations for a Canadian Bill of Rights".

We assume that the Parliamentary Committee which is to be set up will consider the proposals for a Bill of Rights which have been and are to be made from various quarters in Parliament and outside.

We wish now to emphasize our view that the Parliamentary Committee should, as a basis for its consideration of Canadian civil rights and freedoms, investigate the apparent violations of fundamental civil rights which have taken place recently in Canada.

We believe that it is necessary to consider not only broad questions of human rights and fundamental freedoms and methods of implementing our United Nations obligations, but also, more concretely, methods of making secure in Canada those civil liberties which events of the past year have shown to be inadequately protected. It is our view, which we hope that you and your colleagues will share, that adequate measures for the securing of Canadian civil rights can only result from a study of the Canadian problem, including an examination of what are widely believed to have been fundamental violations of Canadian civil rights since

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the end of the war. This study should be made a primary responsibility of the Parliamentary Committee.

Specifically we believe that the Committee should be asked to investigate:

- (1) The methods of the A.C.M.F. in the espionage investigation;
- (2) The conduct of the Killock-Taschereau Commission;
- (3) The desirability of amending the Official Secrets Act to remove some of the presumptions of guilt contained in it; and
- (4) The relation of these questions to the need for a Bill of Rights for Canadians.

Apart from these investigations, there are certain related matters which we believe should receive your attention as Minister of Justice. On these we feel that the Department or the Government should act without delay in order to correct manifest injustices which have resulted from recent abrogations of civil rights. Specifically we believe that the following actions are needed:

- (1) The reports of the Killock-Taschereau Commission should be withdrawn from circulation;
- (2) Compensation should be offered those persons found guilty in the reports but acquitted in court; and
- (3) Certain individual cases should be reviewed.

Our comments on these three and the above four points follow.

A. Questions in regard to which immediate action is sought.

1. CIRCULATION OF THE COMMISSION REPORTS

We urge that the reports of the Killock-Taschereau Commission be withdrawn from circulation. Without entering into a detailed criticism of the reports, we can sum up our position as follows:

- a. The reports went beyond the terms of reference of the Commissioners. They contain distortion of fact, and relevant evidence is suppressed. (See various Civil Rights bulletins, enclosed). They were not documents worthy of publication by the Government of Canada.

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A. 1. CIRCULATION OF THE COMMISSION REPORTS (cont'd.)

b. Such reports, which found persons guilty in advance of trials, should never have been distributed while the cases were before the courts. The distribution appears to be in contradiction of the statement by the Prime Minister on February 15th, 1946, when he urged caution and reserve on the grounds that the cases were subjudice.

c. It is unfair to continue to circulate a document in which six persons since acquitted in open court, are denounced as guilty. The final report also contains attacks on or findings against a number of persons not charged in court and against whom in most cases no charges could be made.

2. COMPENSATION TO THOSE ACQUITTED

The Government, by publishing the reports of the Kellock-Taschereau Commission, in effect underwrote the guilt of those declared guilty in the reports. The final report declares that "whatever the view taken in the courts the findings of the Commission... are not affected and remain valid". This guarantee of guilt has been broken by the acquittal to date of six of those found guilty in the report. They have been put to heavy legal expense, suffered severe damage to reputation, and in some cases lost their jobs. There is an equitable and moral obligation on the part of the Government to compensate these people for legal costs and damages to reputation. Those who were Government employees should, in addition, receive back pay and be reinstated in employment.

3. CERTAIN INDIVIDUAL CASES

Certain cases should be reviewed at once with a view to releasing some individuals and reducing the sentences of others.

a. The Willsher Case

There is no evidence (except the assertion of Gouzenko) that this woman is the agent ELLI. Gouzenko's assertion is contradicted by the fact that Miss Willsher had no access to the documents credited to ELLI. Adams is not the agent ERNST, and the conversations between Adams and Miss Willsher have been explained to a jury, who accepted the explanation. This woman appears to be the victim of police intimidation (see p. 255 of the final report: "I know I can be shot quite easily."). She should be released and receive compensation for the way in which she has been treated.

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3. CERTAIN INDIVIDUAL CASES (cont'd.)b. The Rose Case

Public concern has been shown about the conduct of the Rose trial. Charges have been made that he was treated in a discriminatory way pending his appeal. We have previously protested the denial of bail. We urge that a select committee of the House of Commons be set up to hear Mr. Rose in person or with counsel on the subject of his treatment.

c. The Mazerall Case

E.W. Mazerall was convicted on the basis of statements made by him to the police and to the Commission. He was not warned by the police. The statements were not voluntary. The Courts have declared these statements admissible, since the accused did not know of and hence did not ask for the protection of the Canada Evidence Act. The Canadian Bar Association has since recommended that the Canada Evidence Act be amended to make the protection of the act automatic. We support this recommendation. We also urge that clemency be extended to Mazerall. He is serving a prison term on the basis of a provision of the law of evidence which the Canadian Bar Association feels in the interest of justice should be changed.

d. The Woikin Case

On the advice of counsel Mrs. Woikin entered a plea of guilty and was sentenced to two and a half years in penitentiary. After that her original sentence was increased by six months for contempt of court. It is doubtful if the contempt sentence is valid. It should be made clear that she is serving the original sentence only. It would be appropriate to review her sentence in the light of the fact that her conviction was only possible because of answers extracted from her by the police which led to her subsequent guilty plea. The same consideration as in the Mazerall case are applicable here.

e. Other cases, now on appeal, may be the subject of later representations to you.

B Questions in regard to which investigation by the Parliamentary Committee is needed.

1. METHODS OF THE R.C.M.P.

The Parliamentary Committee should be directed to examine the conduct of the interrogation of those detained at Rockcliffe under P.C. 6444. We suggest that the R.C.M.P. interrogation was illegal. When those detained were taken

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B. 1. METHODS OF THE R.C.M.P. (cont'd.)

into custody it was known that charges would probably be laid against them. They were not warned by the police. Individuals appear to have been bluffed, cajoled and frightened into making statements. We would call to your attention recent comments on police methods by the Ontario Court of Appeal in the Sears and Dick cases. It has been stated in court that extreme political and racial bias was shown by the examining officers of the special branch of the R.C.M.P. in the espionage cases.

2. THE CONDUCT OF THE KELLOCK TASCHEREAU COMMISSION

The Parliamentary Committee should be directed to examine the conduct of the Kellock-Taschereau Commission. We have urged before that it was unnecessary to set up a Royal Commission to do a police job, and a job that had already been done by the R.C.M.P. There is no Canadian precedent and no authority for the setting up of a Royal Commission to sit in secret. There does not seem to be any authority for the action of the Commission in swearing witnesses to secrecy. The Commission refused to advise witnesses as to their rights, even when requested to do so. In many cases the Commission refused access to counsel at a time when the Commissioners well knew that charges would be preferred against the person asking counsel. The Commissioners showed strong political bias and prejudice, and by the procedure they adopted they unfairly handicapped the defence of the accused.

3. THE OFFICIAL SECRETS ACT

We urge that the Parliamentary Committee examine the Official Secrets Act with a view to clarifying a number of points and in particular to removing the weighty and objectionable presumptions of guilt contained in it.

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4. A BILL OF RIGHTS FOR CANADIANS

We believe that the events of 1946 clearly indicate the need for the re-affirmation of the rights of Canadians. This is particularly appropriate at a time when interest in the rights and responsibilities of Canadian citizens is high. Such a bill can only be satisfactory if it is preceded by wide public discussion in which individuals and organizations can effectively take part. We therefore urge that the terms of reference of the Parliamentary Committee include consideration of a Canadian Bill of Rights and that the Committee be enabled to hear representations on that question as well as on the specific points which we have suggested are necessary preliminaries to the consideration of a Canadian Bill of Rights.

Yours very truly,

(Mrs.) Margaret H. Spaulding
Chairman.