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TO HIS EXCELLENCY

The Honourable PATRICK KERWIN

JUDGE OF THE SUPREME COURT OF CANADA

ADMINISTRATOR OF THE GOVERNMENT OF CANADA.



Report of a Committee of the Privy Council ON MATTERS OF STATE.

PRESENT:

The RIGHT HONOURABLE

L.S. ST-LAURENT

THE HONOURABLE

B. CLAXTON

S.S. GARSON

W.E. HARRIS

APPROVED
4 JULY 1951

May it please Your Excellency

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AT THE GOVERNMENT HOUSE AT OTTAWA
WEDNESDAY, the fourth day of JULY, 1951.

PRESENT

HIS EXCELLENCY

THE ADMINISTRATOR IN COUNCIL:

WHEREAS The Emergency Powers Act authorizes the Governor in Council to do and authorize such acts and things and make from time to time such orders and regulations as he may by reason of the existing national emergency deem necessary or advisable for the security, defence, peace, order and welfare of Canada;

AND WHEREAS the agencies of the Government of Canada that are responsible for security measures have advised that it is necessary to secure information with respect to a limited class of communications that are transmitted by communications agencies for the purpose of ascertaining the nature of communications that may be prejudicial or may be used for purposes that are prejudicial to the security or defence of Canada.

THEREFORE His Excellency the Administrator in Council, on the recommendation of the Prime Minister, the Right Honourable Louis S. St. Laurent, and by virtue of the powers conferred by The Emergency Powers Act, is pleased to order and doth hereby order as follows:

1. In this Order

(a) "communications agency" means a person who owns, operates, controls or manages a means of communication by which communications may be transmitted by cable, telegraph, telephone, radiotelegraph or radiotelephone; and

(b) "Minister" means the Minister of Justice.

2. (1) Where the Minister is satisfied that any person has sent or received or is likely to send or receive, by means of a communications agency, any communication that may be prejudicial to or may be used for purposes that are prejudicial to the security or defence of Canada, he may, by an order to be signed by him, require the communications agency to produce or make available, to a person to be named in the order, a copy of every communication or every one of a class of communications that the person sends or receives or has sent or received by means of that communications agency.

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(2) The Minister may, by order, name any or all of the following persons and no others, to be the persons to whom the communications agency shall produce or make available copies of the communications to which the order relates, namely, the Minister or his lawful deputy, or the Commissioner of the Royal Canadian Mounted Police or any commissioned officer of the Royal Canadian Mounted Police.

3. (1) Where the Minister makes an order under paragraph 2, he or any person authorized by him for the purpose may require the communications agency to submit to him the names of and any information that the communications agency has relating to any officer or employee who may deal with or be in a position to deal with a communication to which the order relates.

(2) Where the Minister has made an order under paragraph 2 and he is satisfied that the security or defence of Canada may be prejudiced if an employee continues to be employed by the communications agency in a position where he has access to or is able to have access to communications to which the order relates, he may order the communications agency to employ the services of that employee in a position where he is unable to have access to the communications to which the order relates.

4. Where an order under paragraph 2 is directed to a communications agency that transmits communications by telephone, radiotelegraph or radiotelephone, the Minister may direct the manner in which and the person by whom the communications to which the order relates are to be copied.

5. No person shall, without the consent of the Minister, communicate to any other person not legally entitled thereto any information with respect to

- (a) the making of an order under this Order;
- (b) the contents of an order made under this Order;
or
- (c) anything done by a communications agency or an officer or employee thereof pursuant to this Order or an order made under this Order.

6. (1) Nothing in any Act of the Parliament of Canada or of a legislature or in any enactment made thereunder or in any other law shall be deemed to limit or affect the operation of this Order.

(2) Notwithstanding any Act of the Parliament of Canada or of a legislature or any enactment made thereunder or any other law, no person is liable in civil or criminal proceedings by reason only that he complies with this Order or an order made under this Order.

7. (1) Every one who contravenes paragraph 5 is guilty of an indictable offence and is liable to imprisonment for five years or to a fine of ten thousand dollars or to

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both fine and imprisonment, but no proceedings shall be instituted under this paragraph without the consent of the Attorney-General of Canada.

(2) Everyone who contravenes or fails to comply with an order under this Order is guilty of an offence and is liable

(a) upon conviction under indictment, to imprisonment for three years or to a fine of five thousand dollars or to both fine and imprisonment;

(b) on summary conviction, to imprisonment for six months or to a fine of five hundred dollars or to both fine and imprisonment.

8. (1) Where the Minister makes an order under this Order he shall cause a copy thereof to be filed forthwith with the Clerk of the Privy Council.

(2) The Clerk of the Privy Council shall cause every copy of an order that is filed with him pursuant to sub-paragraph (1) to be kept, for a period of ten years after it is received, in a locked register to be kept in his office and to be used for no other purpose.

W. G. ...
D. ...

W. G. ...
H. B. Harris

Approved
J. W. ...
Dep. Administrator
July 4/1951