Canadian National Security: Legislations vs. Practices 1919-1946

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Abstract

The purpose of this study will be to compare legislation governing intelligence gathering domestically for the purpose of preserving national security, with the actual practices of the Canadian government between the years 1919 and 1969.

The laws governing intelligence gathering to defend national security have evolved from a few different sources: First from the tradition of the British Empire having a large stake in the military affairs of Canada; second from the events that have threatened national security; third by the perceived threats to national security. These laws have been ill defined throughout Canadian history, and have in turn given the government little direction for intelligence gathering practices. The laws affecting National Security to be studied will be the following: The Militia Bill from 1904 (although the Aid to the Civil Power section has been unchanged since 1868); The RCMP Act of 1920; The National Defence Act of 1922; The Official Secrets Act; The Criminal Code; and the War Measures Act.

The government organization charged with collecting intelligence domestically between 1919 and 1969 was the Security Service branch of the Royal Canadian Mounted Police (RCMP). The perceived threat between 1919 and 1969 was primarily communism, an the RCMP Security Service spent the vast majority of its time collecting intelligence on subversive groups suspected of communist, and Soviet agents.

Major events that threatened national security between 1919 and 1969 were the following: The Winnipeg General Strike of 1919; WW II, Igor Gouzenko's defection from the Soviet Union in 1946 revealing large Soviet spy rings operating in Canada; and the Royal Commission on National Security in 1969.

In the mid 1960s the Official Opposition in parliament began to question the government's use of intelligence gathering, and especially their secretive practices that went unchecked by parliament as they went on under the guise of "national security." A Royal Commission looking into National Security was published in 1969, and recommended a separate civilian agency divorced from the RCMP charged with collecting intelligence. Government practices went unchanged, however, until 1984.

This study aims to reveal that between 1919 and 1969 the government had little legislative guidance for operating a security intelligence agency, and also had little opposition as practices were done secretively, away from the scrutiny of Parliament. Such a study is relevant for today's debates on the fight against terrorism. To fully understand and appreciate the relationship between Bill C-36 (the Antiterrorist Bill of 2001) and the government's fight on terrorism, it is important to understand the evolution of the threats to Canadian security, the evolution of legislation to counter those same threats, and the evolution of government practices of intelligence gathering.

Canadian National Security: Legislations vs. Practices, 1919-1946

By Joshua Bennett

In 1919 the Canadian government had been operating a secret service since Confederation. The make up of this service, and the extent of its duties and operations were quite small, limited to within Canadian borders[1], and characteristically unorganized. It was not centralized by one agency. By the end of WWI the Government of Canada had four to five various departments collecting important intelligence on national security. The event of the Winnipeg General Strike displayed to the Borden Government that a change was needed in intelligence collection. Thus an act was passed merging the Royal North West Mounted Police (RNWMP) with the Dominion Police (DP) to form the Royal Canadian Mounted Police (RCMP). The RCMP was charged with the sole responsibility of collecting intelligence on threats to national security nation wide. The RCMP kept records of subversive groups, and individuals, operated secret agents who infiltrated these groups, made arrests on occasion, and acted as the nation's counter espionage agency for the next sixty years.

Although national security was one of the main reasons for creating the RCMP, and indeed keeping the Mounted Police organization alive, there was no mention of this in the legislature, or in the House of Commons. In the *RCMP Act* there is no mention whatsoever of a secret service. The RCMP was also given very little policy direction for its use of secret agents,

or intelligence collection. Although the RCMP was created in 1920, there was no mention of its secret service until 1934 in the House of Commons by the Justice Minister. There was, however, plenty of mention of the secret service throughout the 1920s and 30s by opposition labour MPs such as J. S. Woodsworth, and M. J. Caldwell. Such a situation begs a few questions: What was the RCMP doing during this time? How much control did the Government have over the RCMP Security Service? How much direction was given to the RCMP by the Government?

This paper will answer these questions by examining and comparing legislation and declaratory government policy with the practices of the RCMP between 1919 and 1946. The major events of those dates are the Winnipeg General Strike, the arrest of the leaders of the Communist Party of Canada in 1931, the break up of the On to Ottawa Trek in 1935, WWII, and the Gouzenko defection of 1946. The legislations to be examined are the *War Measures Act* of 1914, the *RCMP Act* of 1920, and the *Official Secrets Act* of 1939. The legislation and events will be discussed in chronological order, beginning with a look at the War Measures Act.

The War Measures Act 1914

It is important to understand the legal context that peace officers were made to work in 1919. Therefore a detailed look at the all encompassing *War Measures Act*, created in 1914 is essential. That summer, when war was declared by Britain, the immediate necessity of parliament was to create an act to grant emergency war time powers to the federal government such that by orders in council the government could mobilize Canada's full war time potential. W. F. O'Connor was Prime Minister Borden's legal advisor, and was given the task of drafting the emergency legislation. O'Connor's took the lead of the similar legislation that was passed by the British House of Commons known as the *Defence of the Realm Act* (DORA). The Canadian version became known as the *War Measures Act*. The act stated that in the event of "war, invasion, or insurrection, real or apprehended,"[2] the Governor in Council had the right to deploy military forces, enforce censorship, arrest and detain suspected subversives and aliens, ban subversive organizations, expropriate property, and exert government control over all aspects of transportation and trade. The Governor in Council could "authorize such acts and things, and make from time to time any orders and regulations as he may reason …[or] deem necessary or advisable for the security, defence, peace, order, and welfare of Canada."[3]

Although based on legislation from Westminster, there are some very notable differences between Canada's *War Measures Act*, and Britain's *Defence of the Realm Act*. The Canadian legislation was more "all-embracing" than the U.K. legislation.[4] The *War Measures Act* was also more stringent than its UK counterpart. Where DORA legislated three months imprisonment for breach of regulations, the *War Measures Act* extended this term for up to five years. William O'Connor justified these measures because "no man could foresee what it would need to contain to be effective and …the only effective Act would be one of a

'blanket' character, whereunder the Government could act free of question between Parliaments."[5]

It was under these strict regulations that the nation's security and police agencies operated. These strict laws made the collection of intelligence, the detaining labour leaders, the deportation of aliens, the banning of virtually any organization much easier under the eyes of the law. Once the *War Measures Act* was lifted, however, the state of Canada's security forces were given a much more difficult task.

The State of Canada post WWI

Between 1917 and 1919 there was a sense of general disorder in Canada. The 1917 election was fought over the conscription issue, which divided the country between French and English. A majority of Liberal MPs crossed the floor to join Borden's Union Government. The result of the election saw the Union Government take 153 seats (3 seats in Quebec), with the Liberals taking 82 seats (62 in Quebec).[6] While the country was split on the conscription issue, prices were rising significantly for the first time in years. In 1916 the country witnessed an inflation rate of 8%, 1917 of 18%, and 1918 of 13.5%.[7] Although inflation was raising, wages remained steady at the 1915 rates. As businesses turned over increasingly larger profits, and with the rising cost of living, more and more workers began turning towards labour unions. Amidst the confusion and chaos of the late 1910s, was the growing anxiety over the Bolsheviks. After Lenin's forces swept aside the last remnants of the Kerensky government, in the eyes of the world the Bolshevik revolution was just beginning.[8] In Canada this became known as the "Red Scare."

The state of Canada's intelligence agencies in 1919 was also chaotic. There were a number of organizations charged with collecting intelligence in Canada: The DP, the RNWMP, the Chief Censor's office, the Directorate of Public Safety (whose task it was to coordinate all intelligence in the country – the office was disbanded in 1919 due to ineffectiveness), and finally the Canadian Militia. With all of these intelligence sources, there was little co-ordination in their operations, and their reports were often contradictory.[9] The primary intelligence collection agencies were the militia, the DP, and the RNWMP.

The Dominion Police had been the nation's main agency for intelligence collection since Confederation. It was small in size, roughly 140 men in 1919.[10] The DP were organized similar to most local police forces. Due to its size they relied heavily on the public, assistance of municipal police forces, and they hired most of their agents from private detective firms in both Canada and the US. In the latter half of the war the Canadian Militia were in a good position to collect intelligence as they were responsible for interment camps and the enforcement of the Military Service Act. In March of 1918, the Intelligence Branch of the Department of Militia and Defence began collecting intelligence on the size and support of the

Industrial Workers of the World (IWW) operating in Canada.[11] Although there was communication between the Militia and the DP,[12] it was small, unorganized, and often contradictory about the events of 1918 and 1919.[13]

The most important intelligence force during the Winnipeg General Strike was the RNWMP, given that it was their secret agents who provided the bulk of first hand intelligence, and whose testimony led to the conviction of the strike leaders.[14] In 1917 the fate of the RNWMP was questionable. The Force was already 44 years old, and had established a respectable reputation for its policing of the north-west. But the government's original intention in 1873 was that the Force would be temporary, operating only until the western provinces could establish its own police force. At the outbreak of WWI the RNWMP was reinvigorated when it was needed for border patrol to protect the Dominion against possible espionage from Germans in the US.[15] When the US entered the war, the threat of espionage diminished. That spring when the Canadian Expeditionary Force (CEF) needed cavalry units, large portions of the Mounted Police were given permission to fight overseas.[16] Provincial policing contracts were terminated in 1917, and as regional offices were closed around the country, the Mounted Police shrank to its lowest at 303 personnel.[17] Many predicted that the end of the War would also bring about the end of the Mounties.

The labour strives of 1918 provided the RNWMP with a new and important role in Canada's security. In January of 1919 the RNWMP was given the responsibility of intelligence collection from the Lakehead west to the Pacific, while the DP maintained intelligence operations in Eastern Canada.[18] The RNWMP then began to expand, and opened a Criminal Investigations Branch (CIB) in their Headquarters in Regina. Within the CIB's responsibility was intelligence collection.[19] The Mounted Police had been running secret agents prior to January, 1919. This practice had actually began in 1914, as the DP relied upon the Force for much of the intelligence gathering in the west. It was in 1919, however, that intelligence gathering became the RNWMP's official responsibility in the west.

The RNWMP had in fact become quite proficient at collecting intelligence. Although their methods were crude, they were very effective. Since they were short in numbers, they recruited their secret agents primarily from their own ranks. Recruitment was done to seek personnel who were fluent in many east European languages, and who did not fit the traditional mold of a Mounted Police.[20] They were given no training, but simply instructed to take an alias, and attempt to join a union or political organization. Those who were not successful were removed and sent back to regular duties elsewhere in the Force. Those who were successful, were so largely on account of their own initiative.[21] RCMP Historian Stan Horrall writes that,

> by April, 1919 the R.N.W.M.P. had organized a highly successful undercover intelligence operation in western Canada. Secret agents and detectives had managed to penetrate every important radical

> union and political party. Some of them had acquired the confidence of union leaders. Their reports gave a detailed account of the activities of the radicals, their plans, speeches and movements. These were carefully scrutinized at the C.I.B. office in Regina and forwarded to Ottawa for the information of Rowell [the president of the Privy Council, and Minister in charge of the R.N.W.M.P.] and other cabinet ministers. The government was being fully informed, as it had requested.[22]

Thus was the state of the Canadian west on the eve of an event which would entrench Canada's security service for the next sixty years: the Winnipeg General Strike.

Winnipeg General Strike and the Aftermath

As labour unrest grew in western Canada, the Borden Government became increasingly afraid of a revolution. So convinced was Borden that Moscow money and influence was behind the labour strife, he ordered for more intelligence reports, and increased readiness on the part of the RNWMP and the Militia. In his memoirs he says the Winnipeg strike was "a definite attempt to overthrow the existing organization of the Government and to supersede it by crude, fantastic methods founded upon the absurd conceptions of what had been accomplished in Russia."[23] Borden wasn't alone in his sentiments. His Director of Public Safety, C. H. Cahan, concluded in a report submitted to the cabinet that the Bolsheviks were firmly behind the labour disputes of the west. Borden then instructed his cabinet to take "immediate and vigorous action" to implement Cahan's report.[24]

Most historians agree that the general strike in Winnipeg, 1919, was not a Bolshevik conspiracy, nor was it a revolution seeking to overthrow Parliament. Historian Stan Horrall argues that in 1919 even the RNWMP were convinced that the labour strife in western Canada did not pose a threat to the constitutional authority in Canada.[25] After the famous Calgary Western Labour Conference which spawned the birth of the One Big Union (OBU), Commissioner Perry (head of the RNWMP) held a very extraordinary meeting with three of the leaders of the OBU, Midgely, Pritchard, and Kavanagh. After this meeting Perry reported the following:

I am not prepared to say that [the leaders of the OBU] are aiming at a revolution …[but they are] influencing a section of labour in the west, and unchaining forces which, even if they so desire, some day they would be unable to control.[26]

Thus was the feeling of Perry, as well as the Minister responsible for the RNWMP, N. W. Rowell, who was not convinced of Cahan's findings.[27] Even the RNWMP commanding officer in

Manitoba during the strike, Superintendent Starnes, never described the strike as anything more than a labour dispute.[28]

Since the RNWMP were the primary intelligence agency operating in the Canadian west, with its secret agents who had infiltrated every major union and labour organization (who in turn had the confidence of the labour leaders), why than did the cabinet hold strong convictions that a revolution was at hand? The answer to that question seems to be found in the bureaucratic nightmare that was typical of intelligence reports in Canada in 1919.

The RNWMP intelligence system was structured around its secret agents. Agents and detectives who had successfully infiltrated unions and labour organizations, or interviewed informers, often scribbled notes, copying speeches verbatim as labour leaders gave public lectures. These reports were then given to District CIB office, which were read by the district commanders. The district commanders would then write their own report based on the findings of the agents, and send it to the CIB headquarters in Regina. There Commissioner Perry would read over all of the reports (both of the agents and of the district commanders) and make his own report which he would forward to the comptroller's office in Ottawa, to be distributed to the minister, and cabinet. However, the cabinet did not only receive the report of Commissioner Perry, but also of the district commanders, as well as the reports from the field agents.[29] It was the reports coming from the field, reports containing alarming and inflammatory language that sounded like speeches from Lenin. It was these same reports that were used to convict the strike leaders near the end of the general strike.[30]

Beyond the mass of raw unanalyzed reports received by the RNWMP, was also the reports coming in from the DP, the Militia, and reports from British Secret Service to Borden informing him of Russian plans to promote revolution in Canada.[31] With a serious lack of

intelligence analysis in Ottawa, the sheer mass of reports, and the "Red Scare" that surrounded the country, it is no wonder the government acted as they did.

It was after the strike that Borden set in motion the restructuring of Canada's national security. Realizing that the country's intelligence was a disorganized clutter of confusion, the *War Measures Act* was soon to be lifted, and that the nation had not seen the end of labour militancy, Borden set about to establish one intelligence agency to overlook the entire country. In August of 1919, Perry gave a report to Borden outlining what he believed was the main problems with Canada's security system.[32] This report became the outline for the new security system in Canada. In his report Perry explained that the problem lay in the fact that Canada was divided into two sections for intelligence gathering, east and west, performed by two separate entities who each reported to two different cabinet ministers. He also highlighted the major differences between the RNWMP and the DP. The Mounties were subject to military training and discipline, and were armed. The DP were small, civilian in nature, and depended too much on civilian cooperation, local police cooperation (who where almost all unionized) and US private detectives. The RNWMP on the other hand were not and could not be unionized (by orders in council[33]), and due to their military nature were much more capable to assist in riots without having to call upon the local militia.[34]

Borden took almost all of Perry's suggestions, and in 1920 set about to merge the Royal North-West Mounted Police with the Dominion Police, and create the Royal Canadian Mounted Police (RCMP). This new body was in charge of policing nation wide, and the country's intelligence agency. It is interesting to note that although the main purpose of the creation of the RCMP was for a more efficient secret service, there was no mention of this

at all in the House of Commons during the debate over the new Force.[35] The vast majority of the debate surrounded the intrusion of provincial jurisdiction of policing by a federal police force.[36]

The RCMP 1920 – 1939

In practice, it was less of a merger, and more of a takeover of the DP by the RNWMP. The new force looked, acted, and walked like the old force. It donned the scarlet coats, rode horseback, used the same ranking system, and was lead by none other than Commissioner Perry. The old members of the DP were pressed into the force, given ranks and Mounty uniforms. As mentioned above, there was no mention of the secret service aspect of the RCMP in the House of Commons, nor was there mention of it in the legislation itself. Section 18(d) of the *Royal Canadian Mounted Police Act* permits the Cabinet to stipulate that the force "perform such other duties and functions as are prescribed by the Governor in Council or the Commissioner."[37] Section 17 of the *Act* made the RCMP responsible for the "preservation of peace."

As the act suggests, there was indeed no formal "secret service" section of the RCMP. Rather, the internal security role was done by the Criminal Investigation Branch, recently moved from Regina to Ottawa in 1920. In every district was a divisional CIB, which was in charge of detectives and secret agents. The detectives were not only responsible for investigating matters relating to national security, but were also responsible for investigating regular police work. A detective might one day be investigating a speak easy one day, prostitution the next, and Soviet espionage the following.[38] Agents were rotated in and out as they were required. If a Mounty's secret identity was discovered by a union or Communist organization, he was quickly removed from the operation and returned to

regular police work elsewhere in the country. If a Mounty was successful at his secret agent role, he was often kept undercover for years at a time.

Another very successful aspect of the Force's security service function was its filling system. The Force had two categories: Subversive Groups, and Subversive Individuals. The files came from reports from the field agents, and supplemented by intelligence analysis by their superior officers. Secret Agents reported directly to either detectives in the CIB branch of their division, or to the Divisional Officer Commanding, who in turn reported to Ottawa once a month with Confidential Monthly Reports. By the 1930s the RCMP had a file on virtually every communist in Canada.[39]

Government control and direction over the Force remains questionable. It was this very question that fuelled the Royal Commission in 1969 and 1981 on the RCMP's role in national security. Stan Horrall, the RCMP's historian in the late 1970s writes that,

> there is little documentary evidence of the Government's control and direction of Canada's security service during the two decades between the wars. There were no cabinet committees, no panels or commissions charged with setting priorities or policies regarding internal security. The RCMP received no sets of guidelines or directives with which to operate and determine its intelligence role.[40]

When the Force was established under Arthur Meighen's watch, he made sure that the RCMP kept a very small profile in the provinces, as not to arouse provincial jurisdiction disputes. When the Liberals took over in 1921, they maintained the same policy. In his autobiography, former RCMP Commissioner Harvison described the force's small

commitment in Quebec, "indicated either a lack of appreciation of the situation or supreme and optimistic confidence in the ability of the Force."[41]

Yet according to Betke and Horrall, the government was fully informed on all RCMP activities. The Minister of Justice met frequently with the Commissioner, and the cabinet was fully informed through weekly or monthly reports of intelligence work.[42] It seems that the politicians kept a close watch on all RCMP activity, but at the same time kept them at arms length, giving them little guidance, such that they wouldn't be associated with them. By taking a closer look at the RCMP legislation, a key part of this puzzled may be reveiled. As quoted earlier, the *Act* states that the RCMP "perform such other duties and functions as are prescribed by the Governor in Council," (and here's the important part), "*or the Commissioner*" (emphasis added). Therefore, in theory, the Commissioner alone could authorize secret service activities, giving the Government the ability to disassociate themselves with such behavior should they need to.

Another aspect of policy that is interesting to note is that of operating solely inside Canadian borders. That the intelligence section of the RCMP remained within Canadian limits has been an RCMP policy since 1920. Betke and Horrall write that, "no evidence has come to light which indicates that this was a government decision. On the contrary, it appears to have been a self imposed restriction by the RCMP."[43]

Although there were numerous mentions of the RCMP's security section in the House of Commons by James Woodsworth and Caldwell,[44] neither the Conservatives nor the Liberals ever mentioned that such a service existed, until 1934 when the Minister of Justice acknowledged briefly that such a service existed in the RCMP.[45] Prior to this the only proof that the RCMP had a secret service was when they were needed to supply evidence in

court, such as at the trial of the Winnipeg general strike leaders in 1919, the trial of the leaders of the Communist Party of Canada in 1931, and the trial of the leaders of the On to Ottawa Trek of 1935.

The 1920s witnessed rapid employment, and the rise of wages to match inflation. Union membership lowered, and many labour organizations folded. As a result the RCMP shrank from a membership of 1,532 in 1920 to 876 in 1926.[46] With the onset of the depression in 1930, labour agitation began once again, and the Bennett government strengthened the RCMP. It was under the Bennett government that oversaw the arrests of the Communist Leaders in 1931. The Communist leaders were tried and convicted under Section 98 of the *Criminal Code*:

1) Being members of an unlawful society, the Communist Party of Canada.

2) Being officers of that society.

3) Being parties to a seditious conspiracy.

The trial gave a lot of publicity to the Communist Party. The crown prosecutors had an easy time getting them convicted on the first two charges (especially since the men fully admitted to being members of the Party), but could not convince the judge on the third, that of being party to a seditious conspiracy. Although the leaders were locked away for three years, shortly after their release in 1934, Maple Leaf Gardens in Toronto was filled to capacity to hear Tim Buck speak. He was perhaps the only political leader in Canada who could attract such a crown in 1934. One of King's campaign promises of 1935 was to repeal section 98, which he did shortly after winning the election.

That the communist leaders were arrested in 1931, and not in 1921 when the organization

was first put under surveillance by the RCMP, suggests that the Government was indeed in full control of the country's security service. The Liberal government from 1921 to 1930 did not pursue the arrests of the Communist. This reflects differing government policy on national security by the two mainstream political parties in Canada acting upon the RCMP. Betke in Horrall point out that arresting the Communist leaders was advised against by the RCMP to King in the late 1926. Instead the RCMP sought approval for the deportation of ethnic teachers in the prairies in charge of drama clubs, choirs, art classes, and language classes. It was through these mediums that the Communists were spreading their propaganda. Be using the Immigration Act to deport them, the RCMP felt that they could undermine the Communist Party. Arresting the Leaders, however, would bring about great publicity which the leaders would welcome.[47] The King government did not take this advise, and the RCMP did not pursue that course of action. Herein lies another example of government control over the RCMP. Ironically the Bennett government did exactly what the RCMP advised against.

Another example of government control over the RCMP was the intervention in the 1935 On to Ottawa Trek. As in almost all left wing organizations, the RCMP had an agent in a key position through the entire event. In 1932 Constable L. H. Graham worked his way into the inner circles of the Workers Unity League in Vancouver. In 1935 he was one of the hundreds of relief camp workers who was on strike for better working conditions. "From his trusted position he was able to inform Headquarters of the identity of the leaders of the protest and their plans."[48] Once the trek reached Regina, Bennett ordered that the march be halted, and the Railway companies began to refuse assistance to the movement. After negotiations broke down with the strike leaders, a riot ensued in the city. The leaders

of the trek were arrested, and Const. Graham acted as the Crown's chief witness.[49]

In 1936 the RCMP established for the first time an official "Intelligence Section" within the CIB. This transition is on par with the Government's acknowledgement in the House of Commons of the security function of the RCMP, and yet another example of the policy and government control over the Mounties. The Government became slightly more open to the RCMP's security service in the late 1930s, as the smell of war hung heavy in the air. The RCMP kept a close watch on not only Communist groups, but fascist and Nazi sympathizers as well. Then in 1939 came a bill that came closest to admitting that the RCMP actually operated a secret service: The Official Secrets Act.

The Official Secrets Act 1939

The Official Secrets Act was originally passed by the British Parliament in 1889, and enacted in Canada (almost verbatim) in 1890. In 1911 and 1920 Britain updated the laws governing important information with the *English Acts*. These acts were also legally applicable to the Dominions. In 1939 Canada brought both the 1911 and the 1920 *English Acts* into one Act and renamed it *The Official Secrets Act*. There are basically two separate but related aspects of the Official Secrets Act into one of which all sections apply: Espionage (Section 3) and leakage (Section 4).[50] Section 3 outlines the illegal behavior of espionage, and basically encompasses any information collection of almost any kind that is deemed to be a breach of state security.[51] This section also provides for the communicating, or attempting to communicate with other agents either within or outside of Canada.[52] Section 4 deals with leakage, or the improper disclosure of government information. Any person who either leaks important information to a foreign power[53], or retains documents or information (or allows other to do the same) for no apparent reason can be charged under the Act. The Act also grants special powers to the RCMP. Under the Act the RCMP can arrest without warrant 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.[54]

Any search warrants can be done so long as a justice of the peace is "satisfied by information on oath that there is reasonable ground ...that an offence ...has been or is about to be committed."[55] Section 11 (2) of the Act comes closest to mentioning the RCMP

Security Service. This section states that if the an RCMP officer at or above the rank of Superintendent deems it essential, he can authorize a search using force if necessary.[56] It is interesting to note that the Director of the CIB branch at headquarters in Ottawa was a Superintendent.[57]

The *Official Secrets Act* was just part of the preparations for WWII. The RCMP had been collecting information on all fascist and Nazi groups. "The Intelligence Section of the RCMP was thoroughly prepared for the Second World War… Any chance of a fifth column operating in Canada was quickly nipped in the bud."[58] It would turn out, however, that the *Official Secrets Act* would come far more in handy after the war with Germany had ended, and a new war about to begin.

WWII and the Gouzenko Defection

There were worries in the House of Commons, and in the nation at large that Hitler would employ a "fifth column" in Canada. As Betke points out however, "the outbreak of war was not accompanied by incidents of sabotage or spying. The preparations which had been made before hand were too thorough for that."[59] When the Government announced that Canada was at war, the *War Measures Act* was once again in effect. Within hours of the official declaration of war the RCMP rounded up over two hundred suspected fascists, Nazis, and German aliens, [60] "many defiantly giving the Nazi salute and shouting "Heil Hitler" when arrested."[61] Harvison writes that,

> Due to the surveillance work that had continued up to the last moment, all but two or three of the leaders were among those apprehended and they were arrested within the next few hours … Years of painstaking investigation that had at times brought severe criticism proved its value.[62]

It is interesting to note the tone of the passage. It leaves the reader with the impression that from 1920 to 1939 the RCMP worked incredibly hard at a job that was very important to national security, yet received no thanks. Instead they received nothing but criticism

from opposition parliamentarians, while Government MPs shamelessly took no responsibility for RCMP actions. Harvison goes on to explain that after the war had ended, information from the German High Command confirmed that the roundup of the fascists in the first few hours of WWII had destroyed all of Germany's espionage apparatus in Canada.[63] Their hard work indeed paid off, and saved Canada from unknown danger of German espionage.

As a result of the roundup, there was little German espionage recorded in Canada throughout the entire Second World War. Of the few incidents recorded, one was of a spy who was dropped off on the shores of the St. Lawrence by a German submarine near the town of New Carlisle, Quebec. The German agent had many characteristics that alerted the towns people and the local police: He had a peculiar diesel odor that one acquires during long submarine trips; he used large old Canadian notes that had not been in circulation since well before the war; he used Prussian matches to light his cigarettes – matches that haven't been in Canada since before the war; and his registration certificate had glaring mistakes (such as the fact that it was a bilingual certificate from Ontario when only Quebec issued bilingual certificates at the time). He was apprehended by the Quebec Provincial Police, and interrogated by the RCMP shortly after. The state of this German spy confirmed to the Canadian authorities that the Germans had no Canadian resources to aid or equip their agents, and indeed had very poor intelligence on Canada to give their agents. Even after the spy's defected, he couldn't even name a single Canadian individual who was supposed to assist him.[64]

Little did the Canadian authorities realize at the time, Soviet, not German espionage presented a much greater risk to national security during WWII. Although the RCMP also

rounded up known Communist near the beginning of the war (in accordance with the German – Russian non aggression pact), many of them were released once the Soviet Union entered the war on the Allied side. Mike Pearson, a government civil servant at the time, pushed for the usage of the Communist to help gain support for the war. Although the Communist leaders in Canada did prove to be useful in drumming up support for the war, the RCMP, and Atlantic triangle security leaders were skeptical of their assistance. They were all very concerned about what the Russians were going to do with the thousands of Canadian passports they acquired during the Spanish Civil War.[65]

As efficient as the RCMP was for rounding up Germans, they could not protect the country from dissident civil servant. They simply didn't have the manpower, nor the mandate to investigate all civil servants (the number of civil servants rose exponentially at the outbreak of the war). With the new policy of cooperation with the Soviet Government, known Communists were given freedom to organize in Canada. Two prominent Canadian Communists, Sam Carr (Secretary of the Communist Party) and Labour Progressive MP Fred Rose were very skillful in cultivating possible recruits from the various Marxist groups around the Country. They were both in contact with the Russian military attaché in the Soviet Embassy in Ottawa, and very willing to work for the Communist cause.[66] Carr and Rose (among others) recruited many civil servants and academics who fed them top secret information. Many Canadian scientists had access to top secret laboratories in the US and in the UK. These were academics who had academic networks before the war began, and through personal contacts could attain quite a bit of information.

There were also many official channels that were exploited by the Soviets. In 1942 the British and Soviet governments signed the Anglo-Soviet Technical Accord, and Canada was

by default, a member of the accord. The accord agreed to share all information on "weapons, devices, or processes which …are…or in future may be developed … for the prosecution of the war against the common enemy." A clause in the agreement made it possible for either county to withhold information, but they were required to provide justification for their decision.[67] In 1943 the government passed the Canada Mutual Aid Act, which provided planes, tanks, wheat, bacon, and lumber to all the Allies, including the Soviet Union (which up to then were not included in previous Canadian Acts). By the time the war ended, Canada had supplied the Soviets with roughly $167.3 million worth of food, medical supplies and war material.[68]

With the focus on defeating Germany, providing security for top secret information was a difficult task, especially in a network of countries. Having an efficient security system would entail all three countries agreeing to certain standards, and implementing them. This of course would include the vetting of all civil servants and non-civil servants (such as scientists) who have access to top secret information. As it was, there were many loopholes in security, and the Russians exploited every one. When The UK signed a deal with the US, Canada was implicated, and therefore served as a backdoor into various laboratories. As Canada had the weakest security screening of the three countries, it is no wonder Russia targeted Canada as much as they did. In an exhibit of the Royal Commission on Espionage in 1946, the head of the National Research Council described security during the war this way: "The security and classification of (secret) information is a complex and interlocking problem requiring simultaneous action by the appropriate bodies in U.K., U.S.A., and Canada. The picture is very cloudy due to disagreements, slow action and enforced alterations in status caused by seemingly endless leakages."[69]

Government policy was very favourable towards the Soviet Union in general at the latter end of the war. On February 23rd, 1945, King sent Stalin a message praising the Red Army and its 27 years of history, for its "immeasurable contribution to the cause of freedom."[70] There was a large effort on King's part to ensure good relations between the Soviets and the West, such that nuclear war would be prevented, the success of the United Nations be realized, and world peace ensue. His worst nightmares came true on September 5th, 1945, when Soviet Army cipher clerk, Igor Gouzenko, left the Russian Embassy with irrefutable evidence of Soviet spy networks operating in Canada, the US, and the UK at the highest levels of government. King himself hardly knew what to do with such evidence, and even refused accepting them at the outset of the defection. Once in possession of the evidence, he even contemplated taking them to Stalin himself, and handing them over to him after having a "heart to heart."[71]

Despite King's best efforts, what Gouzenko gave to Canada showed foul play by the Soviets beyond a shadow of doubt, and relations between the West and the Soviet Union quickly deteriorated. A Royal Commission was established in early 1946, and following the Commission's recommendations, a dozen people were charged and convicted under the Official Secrets Act, including Paul Rose and Sam Carr. It is interesting to note the difference in language between the Royal Commission on Espionage, with past documents and legislations that deal with the Soviet Union. In the *Canadian Mutual Aid Act*, the Soviet Union is clearly a friend of Canada, and has a cozy relationship. In contrast the Royal Commission on Espionage treats Russia as the enemy. It is clearly a Cold War document.

Conclusion

The Gouzenko defection is both an end and a beginning. It is the end of an era for RCMP

Intelligence operations that were marred with unclear government policies and criticism. It was the beginning of the Cold War. Gouzenko brought forth a new beginning of clear policies and Cold War espionage. After Gouzenko's defection the RCMP became the agency charged with screening all government employees. They also clearly knew who their enemy was: The East Bloc Communists. It was after 1946 that the RCMP became actively involved in counter-espionage with clear government mandate and direction. Their numbers grew as a result, and the Security Service became an entrenched section within the RCMP.

The RCMP began with uncertainty of the future of the Force. In 1920 many saw the *RCMP Act* as a simple temporary extension of the old RNWMP, who were a temporary police force from their very creation. The very existence of the RCMP displayed the Government's priority to maintain a secret service in Canada. However the Government was torn between the necessity of such a service, and the implications on civil liberties that came with having such a service. Their usefulness became clear at the outbreak of WWII with the roundup of German spies, and crystal clear with the Royal Commission on Espionage in 1946.

From 1920 to 1939, the RCMP were given very little direction and policy from the Government. Although national security was a primary reason for creating the Force, this was not mentioned in either the legislation or the House of Commons. To cope with having such great responsibility while receiving little direction, the RCMP employed secret undercover agents who infiltrated every known subversive group in Canada, and kept accurate records on their membership and leadership. They would not take any further action, however, without consent of the Government.

It was widely known to subversive groups that the RCMP employed such agents, as their identities were always uncovered during key trials. As a result these subversive groups

employed methods to protect themselves. The RCMP, however, were always one step ahead of the groups, and through employing undercover agents for years at a time, they knew every move that they made, even before they made it. These practices always became useful whenever the government decided to take action. In 1921 the Communist Party of Canada was founded in a barn near Guelph Ontario. The Party took every precaution they could not to be detected by the RCMP. One of the men pretended to be doing brick work on the chimney of the barn to serve as a look out. Little did they know, however, that one of the founding members, who was one of the most trusted Communists in Canada, was actually an RCMP secret agent. John Leopold served as a secret agent collecting information on the Communist Party right up until 1927. Although they could have arrested the Communist leaders at any time, the RCMP did not act until the Government told them to in 1931. Arresting them was the easy part, due to the accurate and up to date records the RCMP had on all of the Communist leaders.

Their preparations for WWII were impeccable, and thwarted all German attempts to practice espionage in Canada. The Soviet Union, however, used their Allied status to their advantage, and infiltrated the Canadian government at all levels. They did this at a time when the RCMP were swamped with extra war time duties. It did not take the RCMP long, however, to become aware of their old enemy once again. After Gouzenko's defection, all of their resources were focused on defending Canada in the new era of the Cold War.

Between 1919 and 1946 the Government was in full control of the RCMP. They chose, however, to disassociate themselves as much as possible in order to avoid public criticism of RCMP actions. The operations of the RCMP, however, always reflected Government policy.

For democratic nations there is a trade off between defending civil liberties, and defending national security. On one hand democracies seek to uphold its core values by granting citizens the freedoms of civil liberties. On the other hand democracies must defend themselves from other nations who wish to defeat them by exploiting such freedoms. Between 1919 and 1946 the RCMP collected information on Canadians without their consent or knowledge. They tapped phone lines, opened mail, and ran secret agents for years at a time to acquire this knowledge. Such behaviors are clearly in contrast to the core values of democracy. However, these very practices came through in spades to uphold Government policy on a number of occasions, especially at the outset of WWII.

Canada is once again facing these same issues in 2003. To defend the nation against terrorism, the Government must make use of secret agents, and clandestine operations. Ideally, the authorities seek to have enough knowledge to capture terrorists before committing acts of violence against the nation. Understanding how legislation and policy manifests itself into practice is therefore key to understanding such recent bills such as the *Anti Terrorist Bill* of 2001, and its implications for Canadians.

NOTES

[1][1] The Dominion Police did on occasion operate secret agents in the United States, especially during the Fenian threat of the late 1860s and early 1870s. These practices, however, were the exception, and not the rule.

[2] Canada, *War Measures Act,* 1914, s. 6

[3] ibid, s. 3

[4] Friedland, M. L., *National Security: The Legal Dimensions, A Study prepared for the Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police* (Ottawa: Canadian Government Publishing Centre, 1979) p. 110

[5] Borden, H., (ed) Borden, R. L., *Robert Laird Borden: His Memoirs*, (Toronto: Macmillan, 1938) p. 458. Also cited in Friedland, *National Security*, p. 110.

[6] Beck, J. M., *Pendulum of Power Canada's Federal Elections*, (Scarborough, Prentice Hall, 1968) p. 148

[7] Jamieson, S. M., *Times of Trouble: Labour Unrest and Industrial Conflict in Canada, 1900-66*, (Ottawa, Information Canada, Task Force on LabourRelations, Study no. 22, 1971) p. 159

[8] Reed, John, *Ten Days that Shook the World*, (New York, The Modern Library, 1935) p. 69

[9] McCormack, A. R., *Reformers, Rebels, and Revolutionaries: the Western Canadian Radical Movement, 1899-1919,* (Toronto: University of Toronto Press, 1977), p. 178

[10] Betke, K., Horrall, S. W., *Canada's Security Service: An Historical Outline 1864 – 1966*, (Ottawa: RCMP Historical Section, 1978), acquired through Access to Information Act, p. 350

[11] Bercuson, David Jay, *Confrontation at Winnipeg*, (Montreal: McGill-Queen's University Press, 1974) p. 83

[12] DND Papers, File 2102, Chief Commissioner of Dominion Police to General Gwatkin, August 27, 1918; Bercuson *Confrontation*, p. 83; in this letter the Chief of the DP exclaimed that police at all levels of government were working to eradicate the roots and branches of the IWW.

[13] McCormack, *Reformers*, p. 441

[14] Horrall, S. W. "The Royal North-West Mounted Police and Labour Unrest in Western Canada, 1919" *Canadian Historical Review*, LXI, 2, 1980, p. 170

[15] Canada, *Sessional Papers*, Annual Reports of the Commissioner of the RNWMP 1917, p. 9.

[16] Canada, *Sessional Papers*, Annual Reports of the Commissioner of the RNWMP 1918, p. 8.

[17] Ibid.

[18] Betke, Horrall, *Canada's Security Service*, p. 319.

[19] Ibid.

[20] Horrall, "The Royal North-West Mounted Police," p. 175

[21] ibid.

[22] Ibid, pp. 329 – 330

[23] Borden, H. (ed), *Robert Laird Borden: His Memoirs*, vol. 2, p. 972

[24] Borden Papers, Vol. 104, Borden to Cahan, Sept. 17, 1918.

[25] Horrall, "The Royal North-West Mounted Police" p. 178

[26] Borden Papers, 56825-8, Perry to Maclean, 2 April 1919; Betke, Horrall, *Canada's Security Service*, p. 332; Horrall, "The Royal North-West Mounted Police" pp. 181-182

[27] Betke, Horrall, *Canada's Security Service*, p. 301

[28] Canada, *Sessional Papers*, Annual Reports of the Commissioner of the RNWMP, 1919, pp. 11-12; Horrall, "The Royal North-West Mounted Police," p. 183

[29] Horrall, "The Royal North-West Mounted Police," p. 185

[30] ibid, p. 178.

[31] Borden Papers, 60920, Borden to White, 2 Dec. 1918, telegram.

[32] Borden Papers, 50763, Perry to Borden, 7 Aug. 1919

[33] Privy Council Order 2213, October 7, 1918. This Order was repealed in 1974.

[34] Borden Papers, 50763, Perry to Borden, 7 Aug. 1919

[35] Betke, Horrall, *Canada's Security Service*, p. 354

[36] Canada, *Debates of the House of Commons*, (hereinafter, Hansard), March 9th, 1920.

[37] Canada, *The Royal Canadian Mounted Police Act*, 1920, section 18 (d).

[38] Betke and Horrall, *Canada's Security Service*, p. 380

[39] One particularly successful RCMP agent was John Leopold, aka Jack Esselwien. Standing at 5'4'', a native of Bohemia, he posed as a house painter joined the OBU in Regina in 1919, and joined the local trade union. He taught himself Marxist philosophy, and slowly but surely worked his way up through the ranks of the leading labour organizations in Regina. In 1921 he was elected secretary of the local branch of the Worker's Unity Party, and in that same year represented Regina at the founding meeting of the Communist Party of Canada in a barn near Guelph Ontario. He remained very active in the Communist Party until 1927 when the party suspected him of being a government agent. The RCMP quickly removed him. In 1931 he was the crown's star witness at the trial of Tim Buck, Sam Carr, Malcolm Bruce, and John Boychuck, who were shocked at the sight of their friend Esselwien donning the scarlet uniform of a Mounty. Betke and Horrall write that "there was little that the RCMP Intelligence Section did not know about the Communist movement in Canada, its activities, policies, memberships and international connections." *Canada's Security Service*, p. 453.

[40] Ibid, p. 424-425

[41] Harvison, C. W., *The Horsemen*, (Toronto: McClelland and Stewart, 1967) p. 35

[42] Betke, Horrall, *Canada's Security Service* p. 425

[43] ibid, p. 401. Such a self imposed restriction makes sense. The RCMP were policemen first and foremost. They viewed espionage through the eyes of a law enforcer – spies were crooks who needed to be put in jail. Other countries who ran spy agencies such as MI5 in Britain and the CIA in the United States appreciated the wider political issues of espionage, and how intelligence can further political goals abroad. For the RCMP there were no legal statutes for operating agents outside of Canada, and was therefore unthinkable.

[44] For example, see Hansard, April 5, 1937. In this debate Calwell was blasting the security service for its invasion of civil rights.

[45] Hansard, March 20, 1934

[46] Canada, *Report of the Royal Canadian Mounted Police for the Year ended September 30, 1926*, (Ottawa, 1927) p. 5

[47] Betke and Horrall, *Canada's Security Service*, p. 428 – 431.

[48] Ibid, p. 448

[49] ibid.

[50] Friedman, *National Security*, p. 31

[51] Canada, *Official Secrets Act*, 1939. Section 3 (1). This could include taking pictures, drawing sketches or models, acquiring documents, passwords, etc…

[52] Canada, *Official Secrets Act*, 1939. Section 3 (3) and (4). Under the Act, any person who visits an address of a known enemy agent is guilty until proven otherwise.

[53] Canada, *Official Secrets Act*, 1939. Section 4 (1)

[54] Canada, *Official Secrets Act*, 1939. Section 10

[55] Canada, *Official Secrets Act*, 1939. Section 11 (1)

[56] Canada, *Official Secrets Act*, 1939. Section 11 (2)

[57] Betke, Horrall, *Canada's Security Service*, p. 378

[58] Horrall, Stan., "Canada's Security Service A Brief History" *RCMP Quarterly*, Summer 1985. p. 46

[59] Betke, Horrall, *Canada's Security Service*, p. 478

[60] ibid.

[61] Horrall, Stan., "Canada's Security Service" p. 46

[62] Harvison, *The Horsemen*, p. 101

[63] ibid.

[64] ibid, pp. 105-110; Betke and Horrall, *Canada's Security Service*, p. 505

[65] During the Spanish Civil War, Canadian Communists organized Canadian volunteers to fight for the Communists. The Soviet Government directed the organization from Moscow, and once in Spain, seized all of their passports. Betke, Horrall, *Canada's Security Service*, p. 410 – 423, 544; Pearson, *Mike*, Vol. 1, p. 198; Harvison, *The Horsemen*, p. 149.

[66] Royal Commission on Espionage, *Report*, 1946, pp. 74-8

[67] Public Record Office (London) CAB 122/937, War Cabinet, Allied Supplies Executive Report, 30 May 1944; Foreign Office (FO) 371/36928, "notes on the Working of the Anglo-Soviet Agreement," 28 June 1943. Cited in Donald Avery, "Allied Scientific Co-operation and Soviet Espionage in Canada, 1941-45" Wark, Wesley, *Espionage, Past, Present, Future?*, (Ilford, Essex: Frank Cass & Co. Ltd. 1994), p. 109

[68] NAC, Canadian Mutual Aid Board Records, cited in ibid.

[69] RC Espionage, *Report*, Exhibit, Dr. D. W. R. McKinley to Supt. G. E. Rivett-Carnac, Intelligence Branch, RCMP, 3 April 1946

[70] F. H. Soward, *Canada in World Affairs…1944-46*, (London, Toronto, NY, Oxford University Press, 1950) p. 297-99; Betke, Horrall, *Canada's Security Service*, p. 545

[71] Pickersgill, J. W., *Mackenzie King Record, Volume 3, 1945/46* (Toronto: University of Toronto Press, 1970) p. 9; Smith, Denis., *Diplomacy of Fear Canada and the Cold War 1941-1948*, (Toronto: University of Toronto Press, 1988) p. 95