

The Royal Canadian Mounted Police, the Canadian Security Intelligence Service, the Public Archives of Canada, and Access to Information: A Curious Tale

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DOCUMENT

The Royal Canadian Mounted Police, the Canadian Security Intelligence Service, the Public Archives of Canada, and Access to Information: A Curious Tale

Gregory S. Kealey

IN SEPTEMBER 1984 in response to a request made by me under the Access to Information Act, the then Public Archives of Canada (PAC) released to me copies of their correspondence and internal working papers related to the transfer of records by the Royal Canadian Mounted Police (RCMP). These materials were drawn from a number of current PAC registry files, namely 8130 Acquisition of Federal Government Records — General, 8134 Acquisition — Retention and Disposal, 8135 Acquisition — Accession Control, and 8707 - Acquisition — Access and Restrictions.

A brief summary of the history of these RCMP materials and of my attempts to view them in their entirety follows. The story that unfolds tells us much about archives, security forces, Access to Information legislation, and the appeal process. While this particular story has a happy ending, I can assert from painful experience that it is the exception not the rule. Many other efforts to gain access to Canadian Security Intelligence Service (CSIS) records and appeals to the Information Commissioner against exemptions have proven futile.

Gregory S. Kealey, "The Royal Canadian Mounted Police, the Canadian Security Intelligence Service, the Public Archives of Canada, and Access to Information: A Curious Tale," *Labour/Le Travail*, 21 (Spring 1988), 199-226.

I

OUR STORY BEGINS IN 1961 when the RCMP transferred some 663 linear feet of primarily Royal North-West Mounted Police records covering the years 1874-1920 to the PAC.¹ In 1963 an additional 26 linear feet of Criminal Investigation Branch (CIB) records and 13 feet of policy and administration files were transferred to the PAC. The decision to make this deposit came from a 9 January 1963 meeting of the RCMP's Committee on Disposal of RCMP Historical Records. The committee minutes note:

It is agreed that these files [CIB, 1902-22] be forwarded to the Archives. It was also agreed that CIB files in this category, from 1923-52, inclusive. . . be forwarded to Tunney's Pasture for storage. Each year another year's CIB files will be forwarded to Tunney's Pasture. With this method, Archives can draw on another year's CIB files from Tunney's Pasture, or, in other words, will maintain a 40-year gap on the files in the Archives.²

The PAC accepted this policy and on 5 February Dominion Archivist Kaye Lamb wrote to RCMP Deputy Commissioner George McClellan to inform him. There was, however, one disagreement. The RCMP had indicated they wanted to destroy "Confidential Monthly Reports," dating back to 1920. The Archives demurred and asked to review those reports before any were destroyed. McClellan responded on 6 February in the affirmative, while still arguing for their disposal. He added, "We would have no objection to handing over this material to you if you find it of interest. The same policy would apply to these files as applies to CIB files." Interestingly, an archivist had been assigned to evaluate those CIB files. Ted Regehr, then a PAC archivist, reported on 13 February that these CIB files were valuable, noting that "matters relating to labour conditions and labour agitation are well documented." He recommended that the files be retained. Accordingly, on 15 February Kaye Lamb asked McClellan to retain that material. McClellan responded, however, on 21 February in quite a different tone. He now noted: "As you are aware, our policy dictates that matters of subversive nature remain in our custody. As there are some items of this category in these reports, it is necessary that they be removed before these reports are transferred to the Archives." Clearly, RCMP security concerns, which as we shall

¹The RCMP was created in fall 1919 to replace the RNWMP and the Dominion Police. For background, see S.W. Horrall, "The Royal North-West Mounted Police and Labour Unrest in Western Canada, 1919," *Canadian Historical Review*, 61 (1980), 169-90.

²Tunney's Pasture is the location of the Public Archives Record Centre (PARC) which houses inactive federal government department files.

see play a major role in our story, were beginning to surface.³

Curiously, here the PAC records gained from my access request start to dry up and the next item noted is that on 1 May 1963 (May Day no less!) the RCMP transferred 26' of CIB material to the PAC. Kaye Lamb thanked McClellan formally on 11 June and provided a list of this material. From 1963 until 1971 these materials were used by Canadian historians on the basis of a 1961 Lamb - McClellan agreement. The restrictions agreed to in 1961 called for researchers to sign for the material, to submit their notes and any extracts from the files to the Public Record Section staff of the PAC, and to seek RCMP permission to print any extracts from the files. "Sensitive" materials were either to be closed or the archivist was to consult the RCMP liaison branch. The memo argued somewhat ingenuously that "the intention is simply to prevent unfair criticism or embarrassment to the force, not to suppress a fair historical documentation." "Sensitive" areas included: internal disciplinary matters; material relating to charges against Commissioner Herchmer; the relationship of the RCMP to Doukhobors, Communists, enemy aliens, and labour disputes, especially the Winnipeg General Strike; and material which might injure a living person's reputation. All requests to view RCMP material were to be vetted by the Head of the Public Records Section, Jay Atherton, or the archivist in charge of military records, Barbara Wilson. If there were any other questions, they were to be addressed to RCMP Sergeant D. Roller. This cumbersome process was not very satisfactory to anyone concerned. Nevertheless, and this is the key point, a number of Canadian historians used these records in that nine-year period. In practice, it appears that the PAC resorted to little screening, but archivists did insist on RCMP permission and did not allow photocopies to be made.⁴

³Exactly which reports these were is not clear. They may have been monthly reports from each Division; some of these for 1919-1920 are in RG 18. On the other hand this might be a reference to the summaries which were circulated to cabinet. These Reports, which began in fall 1919 and were still being compiled in the 1950s, have a fascinating history of their own. A full rendering of that story would distract from this tale but will be told in the forthcoming publication of what remains of these reports. The Canadian Security Intelligence Service recently has granted permission to the Committee on Canadian Labour History to publish these reports. These volumes, which will begin to appear in Spring 1988, will be edited by myself and Reg Whitaker. CSIS has been able to find reports number 711 (20 June 1934) to 907 (15 December 1938), War Series number 1 (23 October 1939) to 49 (24 December 1941), and the reports from December 1942 on. In addition I have found reports from 1920 and 1926 in various PAC manuscript collections. What happened to the other reports remains unclear. An investigation by the Information Commissioner's office confirms that they are minimally "lost."

⁴Some historians, whose work suggests that they used these files, include: Donald Avery, David Bercuson, W.J.C. Cherwinski, A.R.M. McCormack, David Millar, and Norman Penner.

In late Winter 1971 archivists Barbara Wilson and Jerry O'Brien met with RCMP officials, archivist Stan Horrall and Staff Sergeant Wilson, to discuss the records. Wilson described the meeting as "pointless." The RCMP sought from the archives explanations of the restrictions on the records in question. While indicating that they and Chief Superintendent Allen "felt that restrictions re: Winnipeg General Strike, etc., should be lifted. . . if only because such a long time had elapsed since 1919," the RCMP continued to worry about access. Some weeks later Staff Sergeant Wilson phoned "to ask how we would control access to the records they are about to transfer." Barbara Wilson commented sarcastically, that "this transfer has been imminent since early last fall!" Both sides apparently had agreed at the earlier meeting that archivists should not have "to look over the shoulders of individual students using the RCMP records." The RCMP did suggest, however, that the archivists might censor the students' notes. All agreed, however, that such action "seemed rather senseless."

In April 1971, archivist Jay Atherton wrote an internal Archives memo to Bernard Weilbrenner enclosing Barbara Wilson's notes on that meeting with the RCMP. Atherton's memo hints that the meeting had been prompted by mounting RCMP concerns about access to their records. RCMP Deputy Commissioner Mortimer had written seeking assurance that such records "should only be made available to responsible researchers who are pursuing serious purposes." As Atherton noted, "virtually all persons requesting access to our holdings fit into that category." Atherton argued further that his staff could not "be expected to assume responsibility for controlling access to especially sensitive documentation, such as police records." "If the records are that sensitive," he added, "they should be exempted and all requests for access directed to the RCMP."

In summer 1971, the RCMP suddenly acted on their fears. The events that ensued are not well documented in PAC material, but oral testimony relates a sorry tale of the arrival in the Archives of agents from the RCMP Security Service (SS) who proceeded to engage in the overt intimidation of a young researcher, A. Ross McCormack, now Vice-President Academic of the University of Winnipeg, who was then using the records. Initially the Mounties demanded he turn over his notes to them but they settled for assurances that he would use the material "responsibly." In the aftermath of that encounter, a team of SS agents and officers, headed by Sergeant D. Roller, arrived at the PAC on 21 July 1971, and began a "box by box, screening of the records."

This project "to isolate sensitive material" was completed in October and "on 25 October the responsible officers removed ten feet of records, mostly dated from 1919, back to RCMP headquarters." Archivist Jay Atherton's memo of 27 October explained: "It is the contention of the force that, if they had screened the records sent here prior to their being despatched, these

particular files and volumes would not have been sent." He concluded, "The files removed. . . will be retained in their entirety until such time as a decision might be taken to return them to the archives. No stripping will take place on the files." In general, Atherton and the Archives seemed almost happy to be rid of the controversial material and to be especially pleased that the rest of the RCMP collection was now open with no clumsy restrictions to administer by PAC staff.

In January 1972, however, this "arrangement" became something of a cause célèbre when the Canadian Historical Association (CHA) complained to Dominion Archivist Wilfred Smith that "the RCMP is removing and destroying material from the Archives." An internal Atherton memo of 27 January, composed to help prepare the Archives' response to the CHA complaint, noted: "All requests for destruction of public records must be approved by the Dominion Archivist. Although I gather the force believes itself to be immune from such control. . . . It was my understanding that the records removed would remain at RCMP headquarters for an indefinite period. I had no indication of any intention to have them destroyed." Smith then wrote to RCMP Commissioner W.L. Higgitt, enclosing the CHA letter, and mildly seeking Higgitt's comments. Simultaneously, the Dominion Archivist wrote to the CHA, paraphrasing Atherton's account. He also assured the CHA that the records were not to be destroyed and informed the Association of his letter to Higgitt. He failed to draw attention to Atherton's skeptical note about RCMP attitudes.

Not surprisingly, on 7 February 1972 Higgitt wrote Smith assuring him that the "allegation" of destruction was "without foundation." A week later, Smith sent the CHA a copy of that letter and there the matter was allowed to rest. A situation that reflects badly on the CHA as well as on the other bodies involved.

Almost ten years later in April and May 1981, the removal of the files became a public issue again after a flurry of letters to the *Globe and Mail*. As a result of this specific controversy and because of the general findings of the MacDonald Royal Commission on the RCMP Security Service, Dominion Archivist Wilfred Smith wrote to RCMP Commissioner R.H. Simmonds seeking the return of the material and also requesting other RCMP SS materials. In spring 1982 the material was returned to the PAC. It should be noted, however, that the PAC had not even bothered in 1971 to keep track of what the RCMP removed. Only the RCMP had compiled a rough list. Thus, in 1982 archivists were not able to indicate with any certainty whether they had received everything back that had been removed in 1971. Indeed they believe they may have received some records that had not been in the archives previously but that others that had been removed were not returned. An April 1984 PAC memo by Archivist Judith Roberts-Moore described the situation in detail:

Unfortunately, the list gives file numbers, not titles, and volume numbers which have since been changed. Records removed included material from the Comptroller's office series, from the Commissioner's office series, crime reports and personnel files. Pages from letterbooks were also cut out and taken back to headquarters. A total of 22 volumes as well as some individual files went back to RCMP headquarters. No separate list of these files was prepared concurrently by Archives staff; therefore it is difficult to determine the accuracy of the list.

In 1982 the RCMP transferred these records back to the custody of the PAC. . . . It appears that most of the material removed in 1971 was eventually returned in 1982. However, discrepancies do exist. For example, two files from the HQ series dated 1920 were not transferred back. . . . It is therefore difficult to determine whether all the records came back; indeed, it is also true that additional records have been included in some cases.

It should also be noted that the materials withdrawn in 1971 went far beyond the materials supposedly in dispute. They did not include only CIB records deposited in 1963 but also included material from the original 1961 deposit.

To add insult to injury the RCMP in a letter of 8 October 1982 insisted "that certain files were still restricted." The PAC's objections were met with the rejoinder from C/Supt. W.B. Drew that "the material 'could not be released without impunity.' " [sic] In summer 1983 in conjunction with my research on the Canadian labour revolt of 1919 I began my quest to view this material and simultaneously to try to reconstruct this complicated history.⁵ By fall 1983 some of the material had been viewed but other requests were denied because of the RCMP restrictions mentioned above. A series of informal access requests through the PAC Access Section, however, gained access to most of the restricted files. On 15 August 1984, however, I was informed that four reports had been subjected to deletions under various exemptions of the Access Act.

Therefore in late August 1984 I appealed to the Information Commissioner after the PAC refused my formal request for complete divulgence of the documents still in dispute. My complaint concerned four 1919 RCMP reports - two from Vancouver and one each from Macleod, Alberta and Winnipeg, Manitoba. Further prompting letters to the Information Commissioner in November and January led to various letters from her investigator which in January were initially optimistic but which eventually reported a complete impasse by April 1985. The fact that the records were already in the PAC meant that my complaint was actually against that institution, not against CSIS. Throughout this affair, the Archives made it clear that, although they had the legal authority to release the materials to me, they would not do so without CSIS agreement, for fear of endangering further relations with the service. Thus, CSIS prepared the legal submissions to the Commissioner, arguing against my right to view this material. I think it is reasonable to guess that the Dominion Archivist, Jean-Pierre Wallot and his staff, were concerned

⁵See my "1919: The Canadian Labour Revolt," *Labour/Le Travail*, 13 (1984), 11-44.

as well with the potential precedentiary value of a Federal Court ruling on the questions involved in my case.

In August 1985, only after my request to the Information Commissioner, CSIS agreed to let me see *part* of their substantial legal submission of 18 July 1985. The text they released was totally retyped so I had no idea what was missing. The crux of their argument was that the documents were denied to me because they "might identify or tend to identify sources who had worked for the Royal Northwest Mounted Police during the years of 1919 and 1920." Citing British cases from the 1790s (the height of the anti-Jacobin hysteria) and American cases from Reagan's Supreme Court (*CIA vs Sims*, US Supreme Court, 1985),⁶ CSIS argued that, "As sources are promised at the recruitment stage that their identities will remain absolutely confidential and this promise is confirmed from time to time, it would appear that any breach of this promise, no matter how slight, would at least put a dent in and perhaps ultimately destroy the bonds of trust that presently exist between sources and their handlers." The chilling implications of this argument were made only too clear later:

An additional consequence of disclosing the identity of sources that would have long-term implications would be the destruction of the bonds of trust that presently exist between them and their handlers. Our present sources would undoubtedly derive little comfort from guidelines providing that source identity information cannot be released for a designated period of years. Sources would always suspect that the designated period could later be shortened on a whim. This is the very reason why we, along with all intelligence agencies around the world have always promised and continue to promise absolute and perpetual confidentiality to sources.

Warming to their argument, they turned to history:

A period of 65 years, although it bridges three generations, is a brief span in the lifetime of an intelligence service and in the memory of subversive and terrorist groups. One cannot help remarking on the coincidence of the year 1919 which was not only the date of the documents sought by Professor Kealey but also mark the date of the alleged Turkish genocide of the Armenian people, which has already given rise to one of the most determined blood feuds of recent history.

It is impossible to resist noting that their "alleged" genocide of the Armenian people actually took place in 1915-16. So much for the "coincidence of the year 1919." On the other hand, this argument remains the core CSIS position which continues to prevent the transferring of material to the Archives.

Subsequently, I gained access to censored versions of a further CSIS submission to the Information Commissioner. On 29 August 1985, the then

⁶Ironically, this decision involved the Canadians who had been victimized by a CIA-funded brainwashing experiment conducted by Dr. Ewen Cameron at McGill University. Attempts by the victims to gain legal recompense for the horrors inflicted upon them are still before the courts in the United States of America.

Director of CSIS Ted Finn, took issue with arguments being advanced by the Commissioner to which I had no access. The issues raised revolved around the employment status of the Special Agents in 1919, the interpretation of the injury test in Section 16 (1) (c) of the Access Act, and the question of public testimony by Agents. Finn gave no ground on any point. At this point CSIS also revealed to me that I had seen only 14 of 29 pages of their original argument.

In a 29 August letter to Jean-Pierre Wallot, Finn also rehearsed a CSIS version of the history of the documents. Noting the early 1970s removal of the documents from the Archives and the 1981 return of "much of the material," he opined that the "documents containing the names and numbers of Special Agents were mistakenly returned to Archives." More menacingly, he sought Wallot's permission yet again "to review the RG-18 files in order to identify sensitive documents, identifying the names of these Special Agents with a view to having them placed in a 'RESTRICTED' category."

On 4 September 1985, I received from the PAC part of one of the documents originally refused to me under Section 15 (1) (d) (ii) of the Access Act. (See Appendix 1, Letter 2, Vancouver, 4 April 1919, paragraph re: Seattle.) CSIS apparently regarded its own case here as indefensible. One week later, I flew to Ottawa to appear before the Information Commissioner to present my arguments for the release of the remaining material. Accompanied by Vic Sim of the Canadian Association of University Teachers, who had maintained a watching brief on my case and had provided me with legal advice, I met with the Commissioner and three members of her staff for some two or three hours.

On 7 February 1986, the Information Commissioner found in my favour and offered to proceed to Federal Court on my behalf. She ruled that CSIS's claims "that disclosure of information about sources active in 1919 would hamper the ability of CSIS to attract or maintain confidential sources" were "not established" and thus were "not reasonable." Therefore, she recommended to the Minister of Communication (then Marcel Masse) that he instruct Dominion Archivist Jean-Pierre Wallot to release the material to me. On 21 March 1986, in anticipation of a refusal that both I and the Information Commissioner fully expected, I authorized her office to apply to the Federal Court of Canada for a review of the PAC refusal to disclose. With the deadline approaching, CSIS surprised us all and through the offices of Minister of Culture Marcel Masse informed the Information Commissioner at the eleventh hour, that the release of the records in question had been ordered. In a letter of 26 March 1986 to Jean-Pierre Wallot, CSIS Director General of Information Management R.H. Bennett explained their sudden reversal:

We have adopted this altered stance because it has been shown that the very information we were attempting to protect, has in fact been available to the public for many years. To continue

to refuse the release of this information and allow this matter to proceed to Federal Court, would probably be a waste of everyone's time, based on the availability of the information and the possibility that the Court would only find against us.

While chastened, Bennett remained unrepentant:

The accessibility of this type of information and our consent to release it in this instance, certainly adds to our apprehension over the effect that may result to our source development program. We are by no means backing down from our previous position, namely that we will continue to protect the identification of sources, no matter how much time has passed. The availability of the additional information surfaced by the Commissioner's investigator, in this instance, caught us by surprise.

No matter how murky Bennett's syntax, CSIS's position is clear enough. Finally, in closing, Bennett thanked Wallot and his staff "for the backing that you have given CSIS in this matter" and expressed his regret that "our case was ultimately weakened after so much time and effort was expended by both of our Departments."

The crucial factor in this case then was that not only had various historians already viewed the material, but also that some of the agents involved had been used in public prosecutions in 1919-1920 and had been identified in press reports as agents. From the CSIS perspective a loss in Federal Court might have established important precedents governing their future handling of historical materials, whereas the decision to provide me with this particular material on this occasion could be viewed as an exceptional case with no precedentiary value.

Thus, on 4 April 1986, PAC sent me the rest of the material in question. (See Appendix 1.) And at the end of May 1986, Information Commissioner Hansen sent me a copy of her argument and letter to the Minister of 7 February. (See Appendix 2.)

A short postscript can be added to this curious tale. In January 1988, while conducting further research at the newly-named National Archives, I requested certain RCMP materials that I had not viewed in my earlier research. My request for a number of files went to access because the volumes were still restricted. The Access Section subjected them to similar exemptions to those used in 1983. My complaint that I had already been through this succeeded in freeing a document in which the agent named had been identified previously. In the other case, however, I was assured that a previously undisclosed agent was named and that the document was therefore still exempt. Needless to say I filed a formal access request and in a letter of 4 February the document was released to me on the grounds that "(a) the document in question is similar in content to RNWMP reports previously released; and (b) that Special Agent Eccles was mentioned in a previously released RNWMP report dated 13 March 1919." (See Appendix 1, Letter 1.) This additional document appears here as Appendix 1, Letter 5.

My thanks to the following for their critical comments on this paper: Dan Moore, Judith Roberts-Moore, and Gerry O'Brien of the National Archives, my colleague Ralph Pastore, and thanks also to the Access Section of the National Archives, who responded to my formal requests concerning these matters with diligence and dispatch.

Appendix 1

Editor's note: In the letters that follow the original pagination is indicated by numerals and breaks in the text and the information originally deleted is inserted in bold face.

Letter 1

"E" Division.

Vancouver, B.C. March 13th, 1919

Secret & Confidential.

The Commissioner,
R. N. W. M. Police,
Regina, SASK.

Sir:

Re: Secret & Confidential
Monthly Report.

In accordance with instructions contained in Circular Memo 809 of 10-2-19, I beg to report that on the work of Secret investigation which has been carried out.

Regt. No.6020 is doing invaluable work investigating the Federated Labor Party, and I wish I had more like him. His assistant is attending to Bolsheviki & Russian Workers' Union, etc. As their work had hardly developed in February a review of the reports will not be forwarded for February report.

Of important matters the case of Joe Klodniski, alias Ruttko alias Kerchek, was reported on 18th ult. by wire and letter stating that he had left for Chapman, Alberta. Since receiving your letter of 8-3-19 no further information is to hand.

On the 18th ult. **Special Agent Spain** was sent to Vancouver Island to investigate Joseph Naylor, report on which was forwarded on 7-3-19. Joseph Naylor is well known in these parts, and I am of the opinion that his removal at sometime would have a most beneficial effect, and I shall keep him well in mind.

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F.R. Blockberger has been looked after by **Special Agent Jones**, who sticks to his work, reports were forwarded on 7-2-19, 26-2-19, and since enumerat-

ing the family and persons connected with the Blockbergers. This household is being carefully attended to.

Reports are received from **Orton Hall** which are forwarded on to you, setting forth the conditions at Coughlans Shipyards, but he does not seem to have the knack of getting the essential information.

I regard the question of arms and ammunition of which reports have been forwarded as important, and it is a very difficult matter to delve into as any cause for question must necessarily reveal some carelessness on the part of some other department. The longshoremen are keeping pretty quiet, which fact in itself may be open to suspicion.

The Attorney-General sanctioned the prosecution of the most prominent members of the Chinese National League. Information was laid by Immigration Inspector Malcolm R. J. Reid. Warrants were issued for the apprehension of six members who have since been arrested; they were released on \$5000.00 bail, Case adjourned until 6th March.

The G.W.V.A. of Vancouver is very well organized. At the present time they have 2500 members, and the number is increasing daily as the men arrive from Overseas. They have very comfortable quarters in the old Vancouver Club building on Hastings St. W. Meetings are held every Thursday night and are well attended.

President, Capt. C.W. Whittaker, late 102nd Batt'n.

Vice Presidents - R.P. Foster late Lieut.

H.E. Stafford late Sgt. 7th Batt'n

Secretary - H. A. Lees, late Pte. 7th Batt'n.

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Special Agent Roth was responsible for the arrest of "Chekaluk," a Russian belonging to a prohibited Society, as he was leaving the Country. This man is committed for trial and his case will be disposed of on March 17th in the Supreme Court. **Roth** has been working well lately, and I am more satisfied.

Special Agent Devitt has a good knowledge of this District, and I find is better employed where this knowledge comes into use, than for investigating an important case needing definite information.

Special Agent Davies promises to be a very valuable man, and is investigating the Loggers' Union, an important society of which he is a member.

Special Agent Eccles is going through the Camps between Prince George and the Alberta Boundary, and I hope will obtain useful information.

Mrs. Dickson is doing the accounts, and helping with the M.S.A. work; getting information from the Dominion Police files, etc. She is a capable woman. Her husband is very ill.

Miss Mansbridge, the stenographer, works hard, and is kept very busy; in fact there is too much work for one stenographer, and this will increase.

As far as labor generally is concerned, there are grave possibilities, for there is no doubt that there are very active campaigns going on amongst working men of a disturbing nature, reports of which are being forwarded from time to time. Regular meetings are held in public halls on Sundays, addressed by

such people as Kingsley, Woodsworth, etc., and the tone of these meetings is of the usual extreme kind against what is termed the

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"capitalist" class, and is not favorable to the Government. The speakers are very careful not to go too far, and a good deal of what they say has, I must admit, some truth in it, when you come to weigh the actual meaning of the words spoken. Most of the men who do the speaking are probably in it for mercenary reasons, but there are a few very determined men amongst them who mean business.

I am of the opinion that the Police did not arrive here a day too soon, and from what I can glean from the unsettled state of labor, Bolsheviki movement and the various other organizations of a disturbing nature, all point out that we shall have a very busy and interesting time ahead of us. I might mention that during my 20 years police experience I have had some rather difficult cases to handle, and some situations which required delicate handling, but I am forced to admit that the situation here at present far outshadows in importance anything I have ever handled and calls for the united and best possible efforts of all ranks in handling the situation.

The Government must at all cost keep the returned soldiers united as far as possible. This is most important, as you will see from various reports that the various Labor and other organizations are putting forth their united efforts to try and win as many returned men as possible to espouse their cause by using false propaganda and other means to prejudice them against the Government etc. As a number of the returned men have been unable to obtain employment, this has been taken advantage of by the agitators and are getting them some recruits. If we can only keep

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the returned soldiers with us I am of the opinion that in case of trouble there are enough good loyal people who will stand behind the troops to make the outcome certain. On the other hand, if the disturbing elements win over a large number of returned men then the situation will become very serious. As we could not figure exactly whether they may not teach the man now in Camp here, no doubt the authorities have been most careful in selecting men to be stationed in the different units here, as this is most important.

There is no doubt that they are trying to organize an international strike some time in June or July to paralyse industry. There are a lot of determined men in these organizations who would stop at nothing to gain their end. Kingsley is harmless compared to men of the type of Winch, Kavanagh, Midegeley, Rees, McVety and Lestor, etc. who are factors of the bad element in the Country.

The radical element appear to have complete control of the Loggers' Union and some of the other organizations. A large number of these organizations, I feel sure, are I.W.W., and are now attempting to carry on their propaganda under the cloak of these new organisations. The Loggers' Union

are now 2000 strong and gaining memberships very fast.

Mr. Neil, the gentleman you met at lunch during your last visit here, informed me at lunch on Thursday that these organizations have started secret service unit called the "Holy of Holies," they all take the most rigid oath, and are carefully selected to shadow the R.N.W.M.P., as they are bound to find out what we are doing here. They are supposed to have put up at the nest as well as the cheapest places in town and dress according to their surroundings. We have no-

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ticed two or three around our building. I have instructed our men not to notice them at all.

However, it is very pleasant to note how delighted and pleased the great majority of people in Vancouver and British Columbia are to have the Mounted Police in their midst, especially at this time.

In conclusion I have the honor to suggest that, as a large number of the disturbing element are from foreign countries that some means should be taken to send them home as speedily as possible. This I feel will ease the situation here very much.

I have put forth my best efforts, ably seconded by all members of my command, to gather information, and to keep you informed of the pulse of the situation at the present time.

I have the honor to be,
Sir,
Your obedient servant,

[F. Horrigan]

Supt.

Letter 2

"E" Division.

Vancouver, B.C. April 4th, 1919

The Commissioner,
R. N. W. M. Police,
REGINA, SASK.

Sir:

SECRET & CONFIDENTIAL MONTHLY REPORT

I have the honor to submit my confidential report for the month of March 1919.

Numerous investigations of importance have been made and agents have been fully employed, and I am pleased to say have produced valuable information.

Regt. No.6020 has been employing his activities on the B.C. Federation of Labor and other matters connected with it. His report on the subject of the "Labor Defence Police Force," with the name of Kavanagh as chairman, rather goes to show the determination of these people, and suggests the possibility of something more than a force to guard their meetings. The Federation of Labor has not been quite so much to the fore in its own account, but the representatives as you are aware have been most busy in their support at Calgary and elsewhere of the "One Big Union" movement. The importance of this can be seen from the following schedule of the proposed Government of the O.B.U.

Central Committee of Five -

A. Pritchard, Vancouver, V. Midgley, Vancouver,
T. Johns, Winnipeg, Joe Knight, Edmonton and
Joe Naylor, Cumberland.

Each of the four Western Provinces has a Provincial Committee of five, and next come -

Trades & Labor Councils and District Boards

In City District

In County Districts

With an organisation of this nature, and a good deal of determination about its leaders we are faced with a very grave problem. The best and safest policy in dealing with this question seems to be an educational one of a very well organized and vigorous order and no time should be lost in my opinion. The danger of aggressive measures is almost sure to produce the atmosphere of martyrdom.

The strongest lever to use in this sort of policy to my mind, would be the festering of dissention between the leaders of the various Unions and Labor Organisations; an example of this will be seen in the criticism of A. Winch's remarks "That labor was at war with capital" which was taken exception to by Delegate Welsh of the Metal Trades Council, Pritchard, Crawford, Cassidy of

-2-

the Boilermakers' Union, and one or two others, before the Royal Commission investigating the Boilermakers' dispute. The attached newspaper clippings give a very good illustration of this point.

No. 24 has done some very useful work in reporting on these matters and keeping me informed, and his reports have been forwarded.

Russian Workers Union: This organization chiefly composed of unnaturalized foreigners, is getting more active, and if the proposed combine with the I.W.W. takes place it will need very close watching. No.6 is in the confidence of Starikoff, who seems to be the leader, and he together with 6020 seems to have the organization well covered. No.14, who is also working under 6020, cannot get inside information as he is known you have been employed by the Dominion Police, but has been very useful in gathering information from the outside. I consider this organization the most dangerous, which we have to deal with, and I am of the opinion, that if the members were deported as undesirable citizens it would greatly relieve the tension. Such action would, I believe, be welcomed by the G.W.V.A., and in fact by the Public generally. Here again I think if public attention could be drawn in some way to the undesirability of having these revolutionaries from a troubled country, still carrying on their propaganda here, they would be only too glad to see the last of them.

No.24's report of March 9th on the Formation of the Soldiers & Sailors Labor Club reveals the activity of Kingsley, Pritchard, Kavanagh and Midgely on the returned soldier problem, and the value which they place on getting hold of them.

B.C. Loggers' & Camp Workers' Union is an active organization, and its membership is increasing rapidly. There appear to be quite a number of I.W.W.'s joining its ranks and since the convention at Calgary every effort has been made to get members with a view to swamping the smaller organizations who are not favorable to the "One Big Union," when the time comes to vote on this question No.24 is a member, and is rapidly gaining the confidence of the leaders. Mr. Jolliffe of the Canadian Immigration receives reports of their meetings which help considerably in keeping touch with their plans. At the present time difficulty is encountered in keeping track of the outside delegates appointed for propaganda work in the Camps, which will only be overcome when detachments are opened up throughout the Division.

Chinese Nationalist League: In this connection Six men are charged under the War Emergencies Act, accused of being members of an unlawful organization, namely the Chinese Nationalist League, which is a prohibited Association. The case has been before Magistrate Shaw for sometime and evidence for the prosecution taken. Some technical difficulties have been experienced owing to confliction in translation and interpretations.

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Chekaluk is still awaiting trial on charge of being in possession of a card or device showing him to be a member of an unlawful association. This man elected for a speedy trial and his comes up on April 3rd, 1919.

Ruttka alias Klodnicki is in town as I notified you on the 31st March, an is being kept under surveillance.

With regard to my visit to Seattle, this was made on account of information I received from No.6020, to the effect that literature belonging to the Russian Workers' Union was in a cellar under a house occupied by Mrs. Olga Melnikoff at Seattle. This woman is the wife of Melnikoff who was recently arrested in the States in connection with the murder of Mrs. Reed and Mrs. Greenwood, and had sent up to the leader of the R.W.U. here (Starikoff) asking for instructions as to what to do with these papers, as she was then under the impression that her husband was under arrest and felt certain that the Police were liable to raid her premises, and I thought that some valuable information might be obtained in connection with the Union here. As I informed you in my letter of March 18th re R.W.U. these papers had already been seized before my arrival. I was, however, able to get in touch with some of the Secret Service Dept. of the Seattle Police, and I think my visit there will be very beneficial.

The G.W.V.A. membership is increasing rapidly, as troops are arriving back, and are doing a lot to mold public opinion in the right direction. This organization is opposed to the "Comrades of the Great War," which has not a very reliable reputation.

During the month **Special Agents Jones & Wilkie** were struck off the strength; the former I did not place too much confidence in, and the latter at his own request. **Orton Hall** also ceased work as his health was failing and he has now returned to the prairie to farm. The remainder are all doing useful and satisfactory work.

Since my last report **Special Agents Wilkie and Lawrence** have been engaged.

In conclusion I would say that my opinion remains the same, and we are up against clever men with brains and with a certain smatterism of truth to give added weight to their teachings.

I consider that only by action on the part of the Government to keep the various labor organizations from uniting, and if possible secure clever and capable men to lead the conservative element in the various labor organizations and start an educational campaign; and thus develop a strong opposition to the extreme element, and by eradicating the foreign element of the agitating type can the pressure be relieved. This line of action I feel sure would soon win many honest well-meaning laborers away from the extremists. Above all the returned soldiers must be provided with work, and be kept together as supporters of the Government.

I have the honor to be

Your obedient servant,

[F. Horrigan] Supt.

Letter 3

ROYAL NORTH-WEST MOUNTED POLICE

"D" Division.
MACLEOD

MACLEOD. ALTA.
28th FEB., 1919.

The Commissioner,
R. N. W. M. Police,
Regina, Sask.

Sir:-

I have the honour to submit for your information my confidential report for the month of February 1919.

During the month Inspt Junget, Regt No 4554 Sergt Grant, Regt No 6020 Corpl Wilson, Spl Agents, Evans, Kobus, Gosden, Kyzlick, and Dourasoff, have been investigating re Industrial disputes, Socialistic and revolutionary activities in the Crow's Nest Pass district.

The coal miners in this district are in a very unsettled state, particularly the foreign element, and noticeably the Russians.

About the first of the month Spl Agent Dourasoff attended at a meeting of the Russian leaders held in "Kong Sings Cafe" at Hillcrest, revolutionary speeches were made, and the anticipated coming strike after the 31st March was discussed. The leaders of this element on this side of the Summit appear to be "Paul Baron or Barunuk of Coleman" and "Paul Simanoff of Hillcrest" these men are out and out Bolshevik. Spl Agent Dourasoff has taken great pains to cultivate his acquaintance with Simanoff, and in consequence has secured some valuable information, for instance Simanoff showed him a letter from Joe Kerechoff, one of the Vancouver leaders, in which the writer stated that very soon there would be a surprise in store for the Veterans and every one else, as the Bolshevik Organization was very strong. At the same time there was a long talk in reference to forming an Organization at Hillcrest, our Agent offered his assistance in the work, but Simanoff stated that for the time being their chances are ruined as the police are watching him etc.

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etc. Simanoff advised waiting until the first of April when the strike has commenced, and if the Bolshevik element meet with success in Winnipeg and Vancouver, that would be the opportune time to commence operations in the Pass.

We also have two other Spl Agents at Hillcrest, viz, Gosden and Kyzlick, their reports agree with the above an extract from Gosden's report reads as follows:- As a result of my investigation at Hillcrest I find that what is known as the Bolshevik element among the foreigners, is in a concrete form, represented by the Russian Social Democratic Party, with headquarters or nerve centre at Winnipeg, whilst on the other hand among the English speaking element is not composed of any one body or represented by any one, but rather the radical element of the various legitimate labor organizations, with the nerve

centre at Vancouver. **Gosden** also reports there is no proper organization or plan of action at Hillcrest, but they are awaiting the results of the anticipated tie up at the end of March, when they are ready and prepared to throw in their lot with anything that might be proposed.

Conditions at Bellevue are about the same as at Hillcrest, about 90% of the miners are Bolsheviki supporters, they are not organized. There are a large number of Ukrainians working in the mines all of whom are strong supporters of the movement, meetings are held every Sunday afternoon, and a number from Hillcrest also attend. From conversation over-heard, I hear that their chief subject of discussion is Bolshevism, and the coming strike. The leaders are "Pete Roska" and "Nick Nikifour" the latter goes to Coleman every second Sunday to consult with Paul Beraniuk the district leader. As at Hillcrest they have no plan of action when the strike commences, but there is considerable talk of riots and bloodshed, both of which are possible, should the strike be prolonged. It is also

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It is also reported that there are many supporters re the strike movement amongst the the English speaking people.

Conditions at Coleman and other points on this side of the Summit are the same as reported concerning Hillcrest and Bellevue. The Bolshekiki and Revolutionary element are strong, but as far as we know they are not properly organized, and have no plan of action. It seems to be greatly a question of the anticipated strike in April.

At Fernie **Spl Agent Kobus** reports a very strong Bolsheviki element, but they lack leaders and organization. The mines have not been working regularly of late, and a number of the Russians have left the camps. Another important point in connection with Fernie is, there appears to be lack of harmony amongst the officials of the Miners Union.

The Revolutionary element in general aim to control the Miners Unions, and anything that is done will appear to be done by the Unions, for instance delegates to the various Conventions will be men of revolutionary tendencies.

The present agreement as to scale of wages will expire on the 31st March next, it is expected that a six hour day and a prohibitive rate of wages will be demanded, and thus an excuse for a general strike.

Joe Ruttka a well known agitator visited the Pass last fall, and no doubt advocated violence, no trace of this man can now be discovered. Information was received a short time ago that he might be at Trail B.C. **Spl Agent Evans** was sent there to investigate this, Ruttka was not there. He is probably in the United States.

On the 15th Feb., two alleged Bolsheviki Organizers turned up at Hillcrest. They had conference with Paul Simenoff, the local Russian leader. George Polack the Slav leader, and Dick Marshall. Amongst other things the matter of finance was discussed, the organizers stated that a man in New York was obtaining money, and it would be delivered

-4-

and it would be delivered later. Marshall was instruct - not to accept the position of delegate at the conference of the local unions of the four Western Provinces, to be held at Calgary on the 13th March. As he was required elsewhere. These men stated that 160 Russian Cossacks were being held at Trail B.C. to be ready and used against armed Force operating in the Crow's Nest Pass when the trouble commences. These two men were on their way to Calgary for a secret conference to be held there.

With reference to the report of 160 Cossacks at Trail B.C. **Spl Agent Evans** was there a short time ago, and does not believe they could be there without it coming to his knowledge.

The conference between the operators and the coal miners of District 18 United Mine Workers of America which usually takes place about this time, has been postponed by mutual agreement until the delegates return from the policy committee of the International Union, which is being held at Indianapolis on march 18th. They will accordingly continue to work under the existing agreement. for the time being.

The General condition regarding, labour unrest. Bolshevism, and Revolutionary activities are grave and serious, the outcome will depend largely upon the conference between the Mine owners and the Miners. If the miners should not get what they demand, there is almost sure to be a strike, and if the strike should be a prolonged one, trouble may reasonably be expected, all indications point that way. It is estimated that about 1500 miners would participate in it.

I have the honour to be,

Sir,

Your obedient servant

Inspt, for Supt, A.O.D.

Letter 4

ROYAL NORTH WEST MOUNTED POLICE

"D" Division.

Secret & Confidential.

Winnipeg, Manitoba.

January 10th, 1920.

The Commissioner,
R. N. W. M. Police,
Regina, SASK.

Sir,

Re:- Monthly Report - December 1919.

I have the honor to submit the following report for the month of December, 1919.

ACTIVITIES OF STRIKE LEADERS:-

During the month of December, the activities of the Strike Leaders & their sympathisers were almost entirely centred around the continued trial of R.B. RUSSELL. The actual trial of Russell commenced on November 26th, & was not completed until December 27th. In all, 134 witnesses were called or examined on behalf of the Crown, and 8 for the Defence.

On the morning of December 24th, the jury returned a verdict of "Guilty" on all seven Counts in the Indictment against the accused, and on December 27th, Mr Justice Metcalfe sentenced Russell to two year's imprisonment on six of the seven counts, and one year on the seventh, the sentences to run concurrently.

The verdict created considerable consternation amongst the Radical element, who had daily crowded the Court room during the trial. On sentence being pronounced, and after the Court had been closed, three cheers were given by the Reds for Russell, resulting in the cheer leader being arrested for creating a disturbance in a Public place. This man is awaiting trial on this charge before Magistrate Sir Hugh John McDonald.

On Russell being sentenced, Mr Cassidy, K.C, on behalf of the accused, gave notice of Appeal in the case, and this will be heard before the Court of Appeals at the Law Courts, Winnipeg, commencing on January 8th, 1920.

Every assistance was rendered Counsel for the Crown by us during the trial, and daily reports on the progress thereof was sent to Regina. One point that may be worthy of mention in this connection, was that **ex-Secret Agent, No. 21, Harry Daskaluk**, who was originally Subpoenaed as a Crown Witness, was considered to be immaterial, and was later arrested on a Bench Warrant asked for by Counsel for the Defence, and called by them as a witness. It was apparently the intention of the Defending Counsel to endeavor to show by this witness that he had been either coerced or bribed to give evidence at the preliminary hearing of the strike leaders last fall, and to show that the evidence of the other Government officials was of an unreliable nature. This matter was reported upon fully at the time.

The trials of the remaining seven strike leaders have been set to commence on January 20th next. Messrs F.J.Dixon, & J.S.Woodsworth, who are charged with seditious libel, and whose cases are being handled by the Provincial Authorities, also come up for trial on the 29th together with J. Farnell, charged with sedition.

LABOR ACTIVITIES:-

No action of an important nature has been taken during the month, as all parties & affiliations connected with the Labor movement are awaiting the result of the Appeal in the case against

Russell.

ONE BIG UNION

The One Big Union Officials and Agitators are still centering their activities on the task of endeavoring to seduce the members of the Internationals from that Organisation and join up with the O.B.U. The Street Railway men's Union are the latest to sever their connection with the Internationals, and at the time of writing, it is not yet decided whether they will affiliate with the O.B.U. or create a new Organisation independent of either. This Union has about 1,000 members, and 800 of them voted to leave the Internationals, 200 voting to remain with them.

The One Big Union have now secured offices in the Bulman Block, 530, Main Street Winnipeg, and call themselves the Central Labor Council. It is noteworthy that R.E.BRAY, one of the men awaiting trial, has been nominated as Vice President of the said Council. With men of Bray's calibre holding executive positions in this organisation, it is in-conceivable that much success can attend their activities.

Reports from Constable Hall at Fort Frances, Ont, show that the O.B.U. are very active in that district organising the lumber workers, and are meeting with considerable success. The I.W.W., are also very active in the U.S.A. in the International Falls district, across the line from Fort Francis. The situation at that point is being closely watched by the American Federal Authorities.

During the early part of the month, a number of members of the I.W.W. attempted to cross into Canada at Fort Frances, but were promptly dealt with by the Immigration authorities there.

PROHIBITED LITERATURE:

There were no prosecutions entered in this Division during the month under the above heading. A large quantity of radical literature is still being distributed at Labor Church meetings, etc., but little of same appears on the prohibited list.

SOCIALIST PARTY OF CANADA.

Local No 3 of this Party have started to organise Economic Classes in various parts of Winnipeg under the direction of George Armstrong, one the men awaiting trial. It is intended to extend their activities in this direction as funds permit. At the present time, they are short of good instructors in this connection.

EX-SOLDIER'S & SAILOR'S LABOR PARTY.

This party is working together with the other Radical Organisations, and occasionally supply speakers for the Labor Church Services on Sunday evenings. They also favor political action. However, this organisation has been somewhat quiescent during the month, as they are awaiting the result of the appeal in the case of Russell.

ALIEN ENEMIES:-

The work of registration of Alien Enemies was continued by us during the month. The total number of cases handled by us during that period were as follows:-

(3)

WINNIPEG:- 10805 - An increase of 26 over November.

FORT WILLIAM; 1758-A decrease of 93 over November.

FORT FRANCES: 207. A decrease of 48.

BRANDON: 731.

About 70 convictions have been obtained in this district during the month under Orders in Council in connection with Alien enemies.

APPLICATIONS FOR NATURALISATION:

A considerable number of Applications for Naturalisation for investigation were received during the month, and reported upon on completion of investigation.

OTHER DEPARTMENTS:

Assistance has been rendered to the Inland Revenue Department in investigating & making seizures of Illicit Stills. One conviction was obtained in the Emerson district, and investigations carried out in the Tashota (Ontario) district in conjunction with an officer of the Inland Revenue Department.

Several cases of smuggling have been investigated in the Boissevain & Fort Frances district, two convictions being obtained in the latter district.

Three convictions have also been registered in connection with selling intoxicants to Indians & infractions of the Indian Act in the Lake Winnipeg district.

I regret to report that no further progress has been made in connection with the Post Office Robbery at Portage La Prairie. Successful results in this matter depend on what action is taken in this connection at Indianapolis, U.S.A. where the suspected culprit is at present located.

GENERAL REMARKS:-

As previously stated the activities of the Labor element are chiefly centred on the Russell case. Until the result of the Appeal in this case is known, very little action will be taken by any of the labor organisations. The Annual Convention of the O.B.U. is set to take place in Winnipeg on January 26th, and a special meeting of delegates of all unions in the city, both International & O.B.U. has been arranged for at the Strand Theatre on Sunday, January 18th, at 10 a.m. to discuss possible action in connection with the trials of the strike leaders. It is reported that the Defence Fund Committee are very disappointed at the results of the appeal for funds by the issuance of Workers' Liberty Bonds, and that very little cash is on hand at present. The situation is being closely

watched for possible trouble when the remaining accused are tried this month.

The Labor Church movement is rapidly spreading in this city, no less than nine separate meetings being held every Sunday. As has been reported many times previously, these so-called "Church services" are nothing but Socialist & Radical propagandist meetings held under the guise of "Church" meetings. Each of these meetings are covered by our men & reports forwarded thereon.

I have the honor to be, Sir,

Your obedient Servant,

[Cortland Starnes]

Ass't Commissioner,
Commanding Manitoba District.

Letter 5

Vancouver, B.C. Feb. 24th, 1919.

Confidential

The Commissioner,
R. N. W. M. Police,
REGINA, SASK.

Sir:

Re: SECRET AGENTS

Replying to your letter of the 20th instant re Secret Agents, I quite agree with you - I could easily employ from twenty-five to fifty men with advantage. As you know, this is a very big Province to cover, and you are quite right in saying that there is a very extended propaganda of a revolutionary character or bordering on same being carried on all over the West. As far as this Province is concerned I have no doubt about it.

The reason I have not extended the employment of Secret Agents to various points in the Province is that you instructed me to retain or employ temporarily such limited staff as was absolutely necessary to carry on. You also informed me that you expected our men back about the 7th March, hence I did not feel quite justified in employing a large staff, and then in the course of a month or two have to dismiss them when our men arrived back.

I am glad to know that you are sending an officer to Prince Rupert, as I felt the want of this for some time, but I was also aware that you were short

of officers and I knew that you were over-worked organizing the different Provinces, and I did not care to worry you

- 2 -

as I felt that you would send an officer as soon as circumstances would permit.

As per your letter, I shall employ Secret Agents as soon as I am able to secure competent men, and send them to Victoria, Nanaimo, Fernie, Nelson, Kamloops and White Rock on the Boundary to work along the Canadian Northern Route. I shall also tell these men that I cannot guarantee the work for any limited time, but if they prove to be extra bright and efficient in the work that you probably might employ them for some time.

I am dispatching **Secret Agent Eccles**, who reported for duty on the 15th instant, tonight to investigate regarding any propaganda that may be going on in the Prince George, B.C. District. Also to work through the Camps between the Prince George and the Boundary of Alberta, with special instructions re **Lucerne**. I feel that he is just the man for the work, as he has worked in various Lumber Camps and strikes me as a very bright and clever man for this work. He will work at some of the Camps and at others sell Saw-Sharpener and other small articles as may appear best to him as he goes along from Camp to Camp. I shall await his report with a good deal of interest, as I feel it will be very thorough.

I have the honor to be,

Your obedient servant,

[F. Horrigan]

Supt.

FJH/GM

Appendix 2

Information
Commissioner
of Canada

Commissaire
à l'information
du Canada

Ottawa, Canada
K1A 1H3

BY HAND

Our File: 84-195
February 7, 1986

The Honourable Marcel Masse, P.C., M.P.
Minister of Communications
300 Slater Street
20th Floor
Ottawa, Ontario
K1A 0C8

Dear Mr. Minister:

The purpose of this letter is to provide you with a report of an investigation conducted by me as a result of a complaint under the Access to Information Act. In accordance with subsection 37(1)(a) of the Act, such a report is provided to the Minister who presides over the institution that controls the record involved in a complaint. The records in question were originally placed in the Public Archives by the Royal Canadian Mounted Police ("RCMP") but they are of the kind that are now the responsibility of Canadian Security Intelligence Services ("CSIS").

The complainant, Professor Greg S. Kealey, a historian, requested access to four Royal Northwest Mounted Police ("RNWP") reports dated 28 February, 13 March and 4 April, 1919 and 10 January, 1920. Professor Kealey received access to the documents, subject to certain exemptions originally claimed with reference to subparagraphs 15(1)(d)(ii), 16(1)(c)(ii) and section 17. The investigation led to the abandonment of the use of section 17 and the release of a portion of a page which had been exempted under subparagraph 15(1)(d)(ii). The use of subparagraph 16(1)(c)(ii) was maintained.

Subsection 35(2) requires me to afford a reasonable opportunity to make representations to parties affected by any finding or recommendation that I may make and that opportunity has been extended to Public Archives, CSIS and Professor Kealey.

Subparagraph 16(1)(c)(ii) provides that "the head of a government institution may refuse to disclose any record requested under this Act that contains information the disclosure of which could reasonably be expected to be injurious to the enforcement of any law ... or the conduct of lawful investigations, including, without restricting the generality of the foregoing, any such information. . .that would reveal the identity of a confidential source of information...."

Our investigation of the complaint has satisfied me that the information which has been withheld might identify or tend to identify persons who had worked for the RNWP during the years of 1919 and 1920. However, in accordance with the Act, it is also incumbent on the party who seeks to withhold information to meet the other tests of the exempting provision. In other words, it must be determined that release could reasonably be expected to be *injurious to the enforcement of any law of Canada* or a province or the conduct of lawful investigations and it must be established that the source was confidential.

Since your officials will no doubt wish to brief you on their positions, I will only summarize the issues as they appear to me.

Professor Kealey, who has no knowledge of the exempted information, has submitted, *inter alia*, in support of his claim to access that this type of information is important in order to understand and evaluate the early history of the labour movement in Canada and the RNWP. He suggests that at some point in time the injury that might flow from release disappears.

CSIS has informed me that they and their predecessor organizations have never knowingly released the names of any confidential source and maintain that the specific injury that would occur if the exempted information in this case were released "is the destruction of the entire source program on which we are dependent for purposes of gathering intelligence related to the security of Canada."

However, our investigation has also disclosed that the requested records had been placed with other records in the Public Archives in the 1960's by the RCMP and made accessible to the public. Concern was raised about the sensitivity of some documents in the collection in 1971, and after review by the RCMP, numerous documents, including the ones in question, were returned to Public Archives to RCMP Headquarters in October of that year. In 1982, after another review by the RCMP, the material was again turned over to Public Archives. Some of the documents were restricted from access, including the reports dated 13 March 1919 and 4 April 1919. The reports dated 28 February 1919 and 10 January 1920 together with other records identifying special agents were made accessible to the public again until 1984 when the names of the special agents were exempted on the four reports in response to an access request. All other records remained publicly accessible until 1985, when CSIS requested restriction of additional records identifying special agents. Our investigation discloses that a number of records bearing special agents' names are still open to public access, and the others described above were repeatedly accessed by members of the public at various times since 1964.

In addition, our investigation has revealed that some of the identities in question were revealed through testimony in court with attendant publicity in the press. No specific evidence of any damage to the CSIS source program as a result of the availability of those identities, some of which are the same or similar to those withheld from Professor Kealey, was placed before me. The point of CSIS's argument as I understand it is that any acknowledgement of the identity of any confidential source will

damage their ability to retain current informants or recruit prospective sources in the future.

While I am mindful of the need for an intelligence service to protect the identity of confidential sources from disclosure, that right to anonymity, in time, should be balanced against the public right to know as established by freedom of information principles. Also, bearing in mind that in this particular case the exempted information was in the public domain at the material time and for many years in the Public Archives, it is hard to find justification for preventing access to it now.

I would also refer you to the preliminary hearing of charges against the Toronto Sun and Peter Worthington of having published a document contrary to the Officials Secrets Act, where the Judge concluded that documents could lose their quality of being secret by earlier disclosure. I suggest that this has happened to the documents that have been withheld from Professor Kealey. To accept that the names of sources who were active over 65 years ago are still to be protected from disclosure is tantamount to accepting that sources must invariably be protected forever. Had Parliament intended that there should never be disclosure of confidential sources, the exemptive section could have been expressed as mandatory without any injury test.

In accordance with section 37 of the Act, I must, where I conclude that a complaint is well-founded, provide the head of the government institution that has control of the record with a report containing the findings of the investigation and any recommendations that I consider appropriate.

Paragraph 37(1)(b) of the Act provides as an alternative that I may request that notice be given to me of any action taken or proposed to be taken to implement any recommendations or reasons why no such action has been or is proposed to be taken. If I select the alternative, I am not entitled to report to the complainant until the time limit set for reply has expired.

My understanding based on the submissions by the agencies involved is that if I were to recommend to you that release of the information should be made, their advice to you would be that the issue ought to be decided by a review in the Federal Court, in other words that you should not accept my recommendation. As this complaint has been under investigation for 18 months, I see no point in postponing the complainant's right to seek such a court review. He has also indicated his intention to do so if I dismiss his complaint. I have therefore reported to Professor Kealey today and enclose a copy of my report to him for your files.

Pursuant to paragraph 37(1)(b) of the Access to Information Act, my finding in respect to Professor Kealey's complaint is that it is not reasonable to expect that injury to law enforcement or the conduct of lawful investigations would flow from the disclosure of the identities of sources contained in these particular records where the information had already been available in the public domain. I conclude that the complaint is well-founded and would recommend that the exempted information be released.

During the course of our investigation, doubt arose as to whether the identified individuals qualified as confidential sources in the sense of that term today. It is possible that they were employees whose identities might be releasable under the combined effect of the Privacy Act and the Access to Information Act or in accordance with common practice in courts of identifying police officers. In that context, CSIS officials indicated that it would require two months for a historian to conduct an exhaustive search for records which may bear on the issue of employment status. I did not consider it appropriate in light of my above conclusions to request that this issue be dealt with in the agency's final representations to me. However, in the event that my recommendation is not accepted by you and the question of the denial of access is placed before the Federal Court for review, I reserve the right for Professor Kealey or the Information Commissioner to raise that issue or any other issue that counsel may advise.

You may wish to advise your colleague, the Honourable Perrin Beatty, Minister responsible for CSIS, of this report, as I am precluded from providing him with a copy under the Access to Information Act.

I have, however, taken the liberty of sending a copy to your Deputy since, notwithstanding the 45 day time limit specified in the Act, it is open to Professor Kealey to ask us to proceed without delay to launch proceedings in the Federal Court.

Sincerely yours,

Inger Hansen, Q.C. Information Commissioner

Encl.