Canadian government to give free hand to its police forces

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Federal Justice Minister Anne MacLellan has tabled a proposal in June to amend Canada's *Criminal Code*, in order to provide immunity to police agents who commit criminal offences ranging from smuggling to physical assault in the course of undercover investigations.

The proposed bill comes in the wake of an April 1999 unanimous ruling of the Supreme Court of Canada in a case involving agents of the Royal Canadian Mounted Police (RCMP) in the selling of hashish in order to trap supposed drug traffickers. The accused later argued that the operation leading to their arrest was in violation of the *Narcotic Control Act* and that all charges against them should consequently be withdrawn.

The country's highest Court has concluded in its ruling that the "reverse sting" operation was indeed illegal. Noting that everyone "from the highest officers of the state to the constable on the beat is subject to the ordinary law of the land", the Court ruled that the police can not violate the law even in the course of investigating drug traffickers.

But in the same breath the Supreme Court invited the government to give itself the very right to do so. "In this country", proclaimed these venerable judges, "it is accepted that it is for Parliament to determine when in the context of law enforcement the end justifies the means that would otherwise be unlawful."

Following the Court's advice, Ottawa is now proposing an amendment to section 25 of the *Criminal Code* that would authorize a police agent to commit "an act or omission...that would otherwise constitute an offence and that would be likely to cause bodily harm to a person or result in serious loss of property".

This would be entirely legal once the agent's action "is authorized by a senior official... who believes on reasonable grounds that committing the act... is reasonable and proportional in the circumstances". The authorization would not be required if the agent "believes on reasonable grounds... that it is not feasible... to obtain" it; or in special cases such as preventing "the compromise of the identity of a public officer acting in an undercover capacity" or "the imminent loss or destruction of evidence of an indictable offence".

If adopted, this "reform" of the *Criminal Code* would greatly strengthen the repressive apparatus of the police by placing it virtually above the law.

The government's attempt to justify such an anti-democratic measure by invoking the struggle against "organized crime" is entirely demagogic.

First of all, the real extent of criminal activity within society is blown out of proportion. A recent report of Statistics Canada found that "the national crime rate went down for the eighth consecutive year; the [latest] decrease of 5 percent has led to the lowest crime rate in 20 years." Among youth aged 14 to 19, the rate was down 7.2 percent in 1999 from the year before, and 21 percent since 1989.

More importantly, the extraordinary powers that Ottawa is proposing to give the police would not be limited in any way to operations against organized crime. The proposed bill gives a very broad definition to the circumstances under which the police may carry out illegal acts, such as "the investigation of an offence under, or the enforcement of, an Act of Parliament".

In a desperate attempt to cover up the dangerous implications of the police methods being sanctioned, Ottawa presents them in the foreword to the proposed bill as "long-accepted and valuable law enforcement techniques."

The validity of such government reassurances should be measured against a number of facts which emerged recently concerning the activities of the Canadian Security Intelligence Service (CSIS).

John Farrell, a former investigator for Canada Post and an agent of the CSIS for much of the last decade, decided last month to go public following a lengthy dispute with his former employer about $50,000 of unpaid overtime. He revealed that he was part of a special "dirty tricks squad" set up by the CSIS in Toronto. Even though the CSIS Act enables the agency, in the case of a "reasonably" perceived threat for national security, to get a warrant from a judge to collect information through illegal means, Farrell and his

acolytes often violated the law far beyond the allowed perimeter of "information gathering" and without any judicial warrant.

The former agent of the CSIS explained for example how, under orders from a superior, he broke into a car to take out and destroy documents belonging to a colleague who had threatened to tell the public about the activities of the special unit. Many times he would receive a judicial warrant and intercept the mail, not only of the suspected person named in the warrant, but also of his neighbors if he lived in an apartment building, so as to avoid raising any suspicion. Farrell also said that while working for the CSIS, he intercepted and photocopied the envelope covers of mail of all the residents of apartment buildings so the service could quickly identify who lived there, other potential national security threats, and "friendly people" who might co-operate.

Another ominous fact revealed by Farrell is that the CSIS had farmed out some of its secret and illegal operations, including mail interception, to a private security firm which happened to be run by a former director of security for Canada Post. Even the *Globe & Mail* had to raise the alarm in a sharply-worded editorial. "The opening of first-class mail", it wrote, "was a tough pill to swallow in the CSIS Act even when ringed by judicial warrants; to have such breaching of civil liberties become commonplace enough to be contracted out to a private firm would be an abominable development, and would suggest in itself a breach of security."

This is the type of police "techniques" which Ottawa now wants to legalize. What about its claims that they have been "long-accepted"?

The fact is that the CSIS itself was created out of the discredited remains of the RCMP Security Service, which was caught in a variety of dirty tricks including burning barns and stealing dynamite.

As the McDonald commission into RCMP wrongdoing wrote in its final report in 1981, "to permit a national police force or security intelligence agency to adopt a policy which entails systematic violations of 'minor' laws puts these organizations at the top of a slippery slope."

It was under recommendations from this commission that the RCMP was stripped of its intelligence-gathering arm, and the CSIS created in its place in 1984. But its director resigned three years later after agents lied to a judge to obtain a warrant: invoking a national security threat (or that of organized crime today) was not seen as enough to justify a violation of the law. Indeed, the government of the day had to withdraw a first draft of the CSIC Act that would have let agents seek warrants to "do any other reasonable act or thing that is reasonably necessary to enable that purpose [of national security] to be effected."

What has been "long-accepted" is in fact the opposite of what Ottawa is claiming now: less than twenty years ago, the powers-that-be were forced to step back from their efforts to give a *carte blanche* to their police and security forces. This is precisely what the present federal government is aiming at with its proposed "reform" of the *Criminal Code*.

That such a dangerous threat to basic democratic rights, far from raising a storm of protest, has been well received from the media and political circles, is another expression of the sharp turn to the right taking place on the Canadian political arena.

The "war on crime" which was initially the political battle cry of the die-hard conservative right has been embraced in the last years by all parties and the whole establishment, regardless of their political labels.

This realignment corresponds to the deepest needs of the Canadian ruling class. Its political representatives play up the redbait of "organized crime" in order to divert public anger and anxiety away from the authors of the real economic and social "crimes" affecting the lives of millions, that is the governments and corporations which are systematically destroying public services, jobs and living standards to drive up the profits of a few.

Another aim of the "law and order" campaign is to justify a beefing up of the repressive police apparatus, which becomes ever more necessary as contradictions accumulate within society itself. "One of the most worrisome tendencies", notes a recent report of Statistics Canada on the growth of social inequality, "is that the fiscal system and government transfers can no longer bridge the disparity in revenue between the rich and the poor households. The after-tax revenue gap is only increasing."

Having no solution for the growing social crisis, except more cuts in social programs and new tax cuts for the rich, the Canadian ruling class is preparing to silence by all means, including the most anti-democratic ones, the popular opposition which will inevitably arise out of the current crisis. Such is the real significance of the proposed amendments to the *Criminal Code*.