



Orders

In

Council

4 January 1940  
to

18 January 1940

RG 2

1

VOLUME 1662

Case No. Sp. 3349

500 PELLICANO AVE. CHICAGO ILLINOIS



2009G

Vol. 1410

4 January 1940



2009

TO HIS EXCELLENCY

*the Right Honourable Baron Tweedsmuir of Elsfield, a Member of His Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of the Royal Victorian Order, Member of the Order of the Companions of Honour.*



GOVERNOR GENERAL AND COMMANDER IN CHIEF  
OF THE DOMINION OF CANADA

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

PRESENT

The RIGHT HONOURABLE

W. L. MACKENZIE KING

THE HONOURABLE

RAOUL DANDURAND

T. A. CRERAR

THE RIGHT HONOURABLE

E. LAPOINTE

THE HONOURABLE

P. J. A. CARDIN

W. D. EULER

J. L. RALSTON

I. A. MACKENZIE

C. G. POWER

J. L. ILSLEY

J. E. MICHAUD

J. G. GARDINER

N. A. McLARTY

J. A. MACKINNON

4 APPROVED  
JANUARY 1940

May it please Your Excellency





AT THE GOVERNMENT HOUSE AT OTTAWA  
THURSDAY, the 4th day of JANUARY, 1940.

PRESENT:

The Deputy of  
HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL:

WHEREAS the Minister of Justice reports:-

1. That regulations 39 and 39A of the Defence of Canada Regulations made by Order in Council P.C.2483 of the 3rd September, 1939, prohibit certain subversive activities by individuals;
2. That it is considered desirable to prohibit subversive activities by associations, organizations and societies and to make certain amendments to the said regulations 39 and 39A;
3. That regulation 58 of the Defence of Canada Regulations provides for the issue of a search warrant where there is reasonable ground for suspecting that a war offence has been or is being committed, and it is desirable to amend this regulation to make it applicable to an offence which is about to be committed, and also to revoke paragraph (2) thereof which gives authority to search without a search warrant obtained from a justice of the peace;
4. That regulation 62 of the Defence of Canada Regulations provides, amongst other things, for offences by corporations and it is desired to provide in a similar manner for offences by associations, organizations and societies;

NOW, THEREFORE, the Deputy of His Excellency the Governor General in Council, on the recommendation of the Minister of Justice and under the authority of the War Measures Act, Chapter 206, R.S.C. 1927, is pleased to amend the Defence of Canada Regulations, made by Order in Council, P.C. 2483, 3rd of September, 1939, and they are hereby amended as follows:

*1. Justice 16th  
D. Justice 6th Jan. 1940  
1 P.M.*

*Canada Gazette  
20-1-40 P.2226*

part, of  
GOVERNOR GE  
Companions of the Royal  
Grand Cross of the Order  
Most Distinguished Order  
Majesty's Most Honourable  
the Right Honourable Baron  
TO HIS EXCEL  
2008



Report  
 GOVERNOR  
 Grand Cross of the Royal  
 Most Distinguished Order  
 Majesty's Most Honourable Baron  
 the Right Honourable  
 COUNCIL

TO HIS EXCELLENCY  
 2009

1. Regulations 39, 39A and 58, are hereby rescinded and the following substituted therefor:-

"39. No person shall

(a) spread reports or make statements intended or likely to cause disaffection to His Majesty or to interfere with the success of His Majesty's forces or of the forces of any allied or associated powers or to prejudice His Majesty's relations with foreign powers;

(b) spread reports or make statements intended or likely to prejudice the recruiting, training, discipline, or administration of any of His Majesty's forces; or

(c) spread reports or make statements intended or likely to be prejudicial to the safety of the State or the efficient prosecution of the war."

"39A. No person shall print, make, publish, issue, circulate or distribute any book, newspaper, periodical, pamphlet, picture, paper, circular, card, letter, writing, print, publication or document of any kind containing any material, report or statement,

(a) intended or likely to cause disaffection to His Majesty or to interfere with the success of His Majesty's forces or of the forces of any allied or associated power, or to prejudice His Majesty's relations with foreign powers;

(b) intended or likely to prejudice the recruiting, training, discipline or administration of any of His Majesty's forces; or

(c) intended or likely to be prejudicial to the safety of the State or the efficient prosecution of the war."

"58. (1) If a justice of the peace is satisfied by information on oath that there is reasonable ground for suspecting that a war offence has been, is being, or is about to be committed, and that evidence thereof is to be found at any premises specified in the information, he may grant a search warrant authorizing any senior police officer or any commissioned officer in His Majesty's forces, together with any other persons named in the warrant and any other constables or members of His Majesty's forces to enter the premises at any time or times within one month from the date of the warrant, if necessary by force, and to search the premises and every person found therein,

and

1/1/1968



and to seize any article found in the premises or on any such person which the officer has reasonable ground for believing to be evidence of an offence as aforesaid.

(2) No woman shall, in pursuance of a warrant issued under this regulation, be searched except by a woman."

.2. Regulation 62 is hereby amended by adding thereto as paragraphs (4) (5) and (6) the following:

"(4) Where any act is committed by or on behalf of or in the name of any association, organization or society which if committed by an individual person would constitute an offence against the provisions of regulations 39 or 39A of these Regulations, each officer, or person acting or professing to act or holding himself out as an officer or otherwise performing or purporting to perform any executive or official work or duty for or on behalf of any such association, organization or society shall be deemed to have committed such act and be guilty of such offence unless he proves that the act constituting the offence took place without his knowledge or consent or that he exercised all due diligence to prevent the commission of such act.

(5) (a) On the conviction of any person on indictment pursuant to the provisions of paragraph (4) of this regulation the court may, in its discretion, if it sees fit, declare the association, organization or society by or on behalf of or in whose name such act was committed to be an illegal organization, and in that event every person who thereafter continues to be or becomes an officer or member thereof or professes to be such, or who advocates or defends the acts, principles, or policies of such illegal organization shall be guilty of an offence against this regulation.

(b) A person convicted on indictment pursuant to the provisions of the said paragraph (4), or an executive officer of the association, organization or society involved, may appeal to the court of appeal against a declaration as aforesaid, and the Attorney General of Canada or of the Province may appeal likewise against a refusal to make such a declaration.

(c) The procedure upon such an appeal and the powers of the court of appeal shall, mutatis mutandis and so far as the same are applicable to such an appeal, be similar to the procedure provided and the powers given by sections 1012 to 1021, inclusive, of the Criminal Code and the Rules of Court passed pursuant thereto and to section 576 of the Criminal Code.

(d)

GOVERNMENT OF CANADA  
Privy Council  
The Right Honourable  
Majesty's Most Honourable  
Grand Cross of the  
Most Distinguished  
Companions of the  
TO HIS  
200



Pb. 37

50

- 4 -

(d) The court of appeal on the hearing of any such appeal may

(i) allow the appeal and set aside the declaration or make a declaration as aforesaid, as the case may require; or

(ii) dismiss the appeal.

(6) For the purposes of regulations 39 and 39A the word "person" as used therein shall, in addition to any other meaning it may have, include any association, organization and society."

*M. H. ...*

Approved

*[Signature]*

4.1.40

GOVERNMENT  
Companion of  
Grand Cross of  
Most Distinguished  
Majesty's Most  
Honourable  
the Right Honourable

TO  
20

*1/10/40*