

*Government Orders*

goods, the trafficking in prohibited weapons, trafficking in human bodies and procuring for purposes of prostitution. All of these types of things make it is very useful to have a recorded record of sounds, of video.

The Supreme Court found over the last two or three years that it could not permit the state, which acts for all of us, to engage in these monitoring activities unrestricted. It found that it was unacceptable and, therefore, if the state was going to use any evidence of the sound or video recording, or whatever, it simply was not going to permit it as admissible evidence unless the state got some kind of a warrant. Up to this point, the state really only had to obtain warrants for wiretapping. This was the first field where our laws required police to obtain warrants for that type of surveillance. That had come quite a distance from the old days when about all you ever needed a warrant for was to go into a private dwelling and/or do a search.

In any event, the court was really inviting Parliament to regulate the field. It was saying to Parliament that these types of activities by the state in pursuance of criminal investigations were not acceptable unless they had a judicial sanction.

What this law will do then, and I am stating it very briefly, is provide the mechanism for the state, for the police, to obtain a warrant to do any kind of surveillance using the usual techniques of videotaping, with or without sound, and wiretapping. The procedure is available and it has been streamlined so that police can go to a provincial court judge as opposed to a district or county court judge. That means that there are more judges available and the procedure is stated clearly in the amendments. The police know what they have to provide to the judge; the judge knows what the criteria are and what has to be done before the warrant can be used and the surveillance undertaken.

The provision for obtaining warrants for all types of state surveillance is something that I think most Canadians will see as a good thing. I hope they do. It manifests and reflects the protection of our privacy that the charter envisaged when it was put in place, and it will require the state to be more organized when it embarks on these

surveillance exercises. The law does not require the average citizen who is out with a video camera or recorder to obtain a warrant. These laws pertain only to actions by the state.

• (1825)

The procedures involved have been streamlined. One of the areas that had been a problem was after the police had obtained a warrant. The person who was charged or convicted would often question whether or not the warrant that had been obtained was obtained properly. Often the warrant was obtained on information from informers and innocent third parties, people operating undercover.

We had the situation where the criminal wanted to see the information and who provided the information for the warrant. This information is usually kept in what is called a packet. The packet is a sealed envelope which contains the affidavit evidence and other materials that permitted the judge to make the decision to issue the warrant.

This statute also provides some direction as to how a court would review what was in the packet. The accused who under our law has the right of full disclosure, has to know the basis on which he or she has been charged or how a warrant was obtained. There are procedures now inserted in the code which will permit the accused to know what is in the packet but not to know who provided the information. Innocent third parties, informers and ongoing police intelligence operations will be protected.

A section of the bill deals with admissibility of evidence. There was a section in the code which said that evidence which was obtained not necessarily legally or illegally but arose out of a situation where there was not a warrant was questionable in terms of admissibility.

There was a section in the code that dealt with the criteria for admitting it. There is also a section in the charter which deals with admissibility of this indirect evidence. The government has decided to drop a number of the sections in the code in deference to the test in section 24(2) of the charter. I am very interested for discussion at committee on the implications of that decision. I am sure there will be some reasonable