

The committee was adamant about the need for proper safeguards in making interceptions, of course, and I believe that our bill provides better protection than any similar legislation anywhere. In the United States, for example, a peace officer who feels there are reasonable grounds to believe that mail contains contraband simply applies for a regular warrant from a federal magistrate or justice of the peace, which entitles him to intercept and seize postal communications.

Indeed, American customs officials may legally open any first class international mail without a warrant if they have reason to believe it may contain contraband. In the case of the United States versus Ramsay the court upheld the right of a postal inspector to open an airmail letter from Thailand solely because Thailand was a known source of narcotics, and the envelope appeared bulky. It was subsequently found to contain heroin. I should note that while opening mail and seizing the contents is permissible under American law without a warrant, reading of the contents of the correspondence is not.

While we do not wish to hamper unduly the difficult task of Canadian law enforcement officials to combat narcotics smuggling, we do feel it necessary to provide strict controls over the authorization of mail interception in Canada. Generally, the safeguards provided in this bill as it relates to narcotics control are similar to those passed by parliament when it enacted legislation with regard to electronic surveillance.

A warrant is valid for a maximum of only 60 days, for example. Any application for a renewal of the warrant must be accompanied by full particulars as to why the renewal is needed, including times and dates when interceptions or seizures were made under the warrant as well as the information which was obtained.

In addition, if a previous application for a renewal was made and refused or withdrawn, the date and names of judges involved must be provided. This would prevent the possibility of the police or prosecutor shopping around for a lenient judge in seeking renewals.

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Within 90 days of the end of the period for which the warrant was issued, the person who was the object of a mail interception must be notified of the fact. If a lengthy, ongoing investigation is anticipated and a longer notification period is required, the Solicitor General (Mr. Blais) must personally sign the application to defer notification, but the deferment may be for no longer than three years. Furthermore, the judge to whom the application is made must be satisfied that such an extension will serve the best interests of justice.

Strict rules are provided to govern the admissibility in court of information gleaned from mail interceptions. For example, an illegally intercepted postal communication would be inadmissible in a court, and any evidence derived from such an interception could also be deemed to be inadmissible if, in the view of the judge, admitting such evidence would bring the administration of justice into disrepute.

Also safeguards are provided to protect the solicitor-client relationship. No warrant may be issued to intercept postal

*Criminal Code*

communication addressed to or originating from a solicitor's office or residence, unless the judge is satisfied that there are reasonable grounds to believe the solicitor, one of his partners, employees, or member of his household, has been or is about to become a party to an offence. If under these circumstances a warrant is issued, the issuing judge must include such terms governing the interception as he feels are advisable to protect privileged communication between solicitors and clients. This is very similar to the provisions in the Criminal Code relating to electronic surveillance.

Bill C-26 provides serious criminal penalties for persons who disclose the contents of legally intercepted communications under any but the specific circumstances outlined in the legislation. These include giving testimony at a trial where the communication is considered to be admissible evidence, in the course of a criminal investigation, or where the disclosure is made to a peace officer in the interests of the administration of justice. Should peace officers make an illegal postal interception, or illegally disclose the contents of intercepted communications, we are proposing to amend the Crown Liability Act to permit the citizen who was the object of that interception to launch a civil suit for damages, not only against the public servants involved but against the government itself. This provision to permit suits against the government was included in the electronic surveillance legislation. It is a radical departure from common law which has indicated always that citizens may not sue the Crown. However, we feel it important to give Canadians this resource, and to reinforce the principle that these powers will be used honestly and judiciously.

One very important provision which I feel sure hon. members will applaud is that which requires the Solicitor General to make an annual report to parliament on all warrants for postal interceptions issued each year, including those relating to national security. The report must detail not only the number of applications for warrants, renewals and extensions of notifications, but also the number of persons apprehended as a result of information obtained through interceptions, their offences, and a variety of other information which will allow one to judge the effectiveness of the legislation and the restraint with which it is being employed.

As far as interceptions authorized in the interests of protecting national security are concerned, the same conditions which parliament required when it enacted electronic surveillance laws apply. These include the requirement for the minister to report to parliament on all such authorizations.

I consider the new legislation to be most important. It provides our law enforcement officials with a legitimate investigative tool which other western nations have possessed for some time. We have had disquieting evidence of late of the dangers which threaten the security of Canadians. Espionage, international terrorism, and the violent activities of the underworld in Canada have all been in the news. While we must use every possible method to protect Canadians from these dangers, those methods must be consistent with our free and democratic way of life.

Thus, all the steps we take in the area of peace and security must be balanced by measures to safeguard our civil liberties.