

required under this bill and where there is not time to confer on whether an application should be made on a Tuesday morning or a Wednesday morning, the police knowing that they must move immediately and that the evidence is extremely important. Perhaps the investigation has to do with the importation of 50 or 60 pounds of heroin through the port of Nanaimo. The local police know it is coming in at two o'clock in the morning and the details will be telephoned at eleven o'clock that night. Where do the police go? They cannot go to a Supreme Court judge in British Columbia, because there is not one in Nanaimo. But they can get the attorney general on the phone and he can give the emergency order that is contemplated by this bill. I ask the hon. member, inasmuch as I appreciate the counter point of view—I really do because I am not sure I am happy about the whole concept of "emergency" as it appears in this bill—to come before the justice committee and give us a solution to these emergency problems. I know the committee will listen to him.

Those of us who have participated in cases in criminal courts which have involved the admissibility of taped evidence, evidence obtained by electronic devices, have been impressed with something this bill has omitted, that is, the fantastic impact that taped evidence has on a jury during the course of the case. It is one thing to hear a witness describe what the accused said to Mr. Jones or what he overheard the accused say on the telephone but it is another to hear in the courtroom his actual voice on the tape. It has tremendous weight with any jury. I suggest that all hon. members when considering this bill bear in mind that this type of evidence is much stronger than the usual *viva voce* evidence you get in a courtroom.

As I understand the law as it is now, a transcript of what is said on the tape can be prepared and given to the jury so there can be no doubt about what was on the tape when it was played back in the courtroom. This is extremely powerful evidence and is another matter we must consider in committee when we are going through the details of this bill.

In short, it is extremely difficult for an accused person who has made a statement of confession, so to speak, on the telephone, which has been taped and the tape introduced in evidence, to in any way deny that he said it or that it was taken out of context, as opposed to a witness who said he overheard him say it in a beer parlour or something like this. The witness can be cross-examined by experienced counsel and his evidence weakened, perhaps, and the tapes cannot. We should not forget this point when we consider this bill, because this practice strengthens the law and I do not minimize the extent to which it does strengthen it.

• (2110)

Another very interesting aspect of this bill is that it is introducing the United States evidentiary concept. It is almost exclusively a United States concept that evidence illegally obtained cannot be admitted in a courtroom. Under the British concept, evidence that is illegally obtained—that is, if stolen goods are found without a search warrant or in certain instances the evidence has been obtained by trespass or something of that nature—the evidence none the less is admissible. Certainly in the United States rule, for instance in the Miranda and

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Escobedo case, where evidence is illegally obtained it is ruled that it cannot be introduced in court.

One of the criticisms which might be directed against this bill, although I am inclined to favour the government's decision to include it, is that the slightest technicality in the application to the judge, such as the time expiring at twelve o'clock and the tape was made at 12.05, means the evidence is inadmissible. Everybody knows what was said on the telephone or on the tape and everybody knows that the accused is guilty, but technically it cannot be proven.

If I have the opportunity to sit on the Standing Committee on Justice and Legal Affairs I will suggest there be flexibility in that provision so that the judge has the right to say that it was merely a technical deviation from the authorization allowed in the application made before him. I think this is a matter to which the Committee on Justice and Legal Affairs might give its attention.

I would not want to think that the hon. member for Nanaimo-Cowichan-The Islands (Mr. Douglas) was left with the impression that we on this side of the House are oblivious to the special powers that have been reserved here for the Solicitor General, particularly in respect of the Official Secrets Act. But in this country we are faced with the very fundamental fact that there are forces which would like to be at work to destroy this institution and even prevent the hon. member and myself speaking here tonight. They would prevent my telling the hon. minister from so-and-so exactly what I feel.

Because I speak in this manner I do not wish to leave the impression that I am paranoid about this. I do not think everyone behind the bush who expresses a violent contrary opinion against the government would overthrow the government. However, the fact is that I honestly believe it is the duty of the government not to prosecute such people but to constantly keep watch on what is happening and be able to constantly inform and take action if necessary when such activities reach the level where social order is to be disturbed by violence. I do not mean by hotheaded youngsters talking about what they would do to the government but a concerted effort to destroy and undermine what we respect as our social order.

Many of those who are violently opposed to some aspect of our society do not use violent means to express their opposition. I think there are many people in this country who appear to be violent but are not. But there are those who very carefully use many institutions in our country for the purpose of expressing some rather nefarious things, and I think the government must keep track of what is going on. This cannot be done through the normal channel of an application made to a judge, because no crime is being committed. It can only be done in the interest of national security. I think the time comes when we must show confidence in the people who are endowed with the responsibility of carrying out this function.

Mr. Bill Knight (Assiniboia): Mr. Speaker, I rise to take part in this debate basically to express the view of a layman on this issue. I have listened to the opinions expressed by those with legal minds who have spoken in the debate. I was particularly interested in the remarks of