

*Protection of Privacy*

would suggest that a notice provision here is a wise provision. If there is some hanky-panky, if there is a possibility of illegality in the wiretap against an individual, indeed if there is anything wrong with the process, the requirement that after 90 days the person who was the victim of the tap be notified is going to bring it all out into the open and provide some additional protection.

To answer some of the concerns of the minister that important criminal investigations may well be hampered by this sort of provision, particularly those sorts of investigations which go on for several years, quite clearly subclause (2)(b) provides for the sort of exemptions that the police can obtain from the original granting judge to cover those situations. Certainly, it was never my intent to hamper that type of important investigation, and I have already stated in this House that electronic eavesdropping can be a valuable tool of law enforcement, particularly in the fight against organized crime.

● (1650)

If one examines the wording of section 178.23(2)(b), Mr. Speaker, one sees that it is possible to get an exemption:

Where the Attorney General of the province in which the application is made or the Solicitor General of Canada, as the case may be, certifies within the said 90 days in a manner prescribed by regulations to the judge who granted the authorization that the investigation is continuing and the judge is of the opinion that the interests of justice require that a delay of a determinate reasonable length be granted, in which case the judge may grant a determinate reasonable delay.

The minister suggests that some investigations by their very nature may take one, two or three years. He referred to the very important case involving the smuggling of heroin into Canada. I think that was a case for the proper use of wiretaps, Mr. Speaker. I would have seen nothing wrong in that situation with the police going to the Attorney General and having him, through his counsel, go back to the original judge, and say, "It is going to take not six, 12 or 18 months but two years to crack this case. Can you give us an exemption from the notice requirement?" I think any reasonable judge would grant an exemption, Mr. Speaker. If he were satisfied of the necessity for it, I think he would grant a determinate exemption of two years. So, I think that everything the minister seeks to achieve is possible in the words of this bill.

Finally, to answer an additional concern of the minister, he points out that in other forms of investigation the police and the law enforcement officers are not required to give the sort of notice which this section contemplates. I agree with that and I think that statement really indicates the minister's lack of understanding of what is being attempted with this particular amendment.

There are many in this House, I suspect the majority, who find that law enforcement and investigation through the use of a wiretap is a much different device or bag of tricks than all the other types of investigation and law enforcement devices in use. There is a certain immorality involved with electronic surveillance that is not involved with other types of police investigation. I think it is quite justifiable, as part of the philosophy of myself and others, that wiretapping and electronic surveillance be treated as a special type of situation. That, as contemplated here, is the requirement of notice.

[Mr. Atkey.]

I want to refer to comments made by hon. members in committee, and in particular and with apologies to the hon. member for Saint-Hyacinthe (Mr. Wagner) who is in his seat. I should like to refer to one statement that he made in committee which I think is particularly compelling in view of his experience politically, legally and judicially. I should like to quote from the proceedings of the Standing Committee on Justice and Legal Affairs for November 8, 1973 at page 28:20 where the hon. member said:

I have no hesitation in repeating what I think about electronic espionage. And now, as a legislator, and no longer as an Attorney General only concerned with the enforcement of laws, but as a legislator who is mainly concerned with the rights of citizens who are affected by the enforcement of this act, I question the advisability of broadening the act to allow police or federal or provincial ministries of justice to engage in wiretapping without the strict control that would result from this amendment which ensures that persons exposed to this are notified; and I say this because it seems to me that an in-depth study of this amendment will enable us to point to the abuses that might be brought if the act goes through without this amendment. Without this amendment, wiretapping would become a crutch for the administrators of justice, who would be implicitly admitting their inability to deal with the rising crime rate.

The hon. gentleman concluded by saying:

—let me say that the use of wiretapping must be limited to precise circumstances, and must be made known at the appropriate time to all those involved.

That statement was put so well that I could not improve upon it, Mr. Speaker, and so I saw the necessity of reading it at this time.

The last point that I would raise, Mr. Speaker, is the other type of exemption that exists from the notice requirement in the form in which it is now drafted. As the section was amended by motion No. 19, there is an exception for situations where there is electronic surveillance involving espionage, sabotage, or other types of subversive activity, sections which were provided for under amendments in this bill to the Official Secrets Act.

I think virtually all members of this House agree that that is a special type of situation in which it would be quite unreasonable to require any form of notice to be given to the persons who are the object of that type of interception. I commend the RCMP security service, and through them and for them the Solicitor General who were so honest and forthright in coming before our committee and indicating the sort of installations and operations that were in use in this country and the necessity for them. I also commend the Solicitor General for arranging for an in camera briefing for members of the committee to indicate the nature of existing operations. It improved my understanding of the nature of that particular process and, accordingly, I have no hesitation in providing an exemption for the notice requirement for all operations under that section of the act.

There is an important protection for Canadians in terms of public knowledge of security service installations by virtue of the reporting requirement on the Solicitor General to table in this House on an annual basis, the number of such security service wiretaps and the extent to which they have been successful, as well as a general assessment of the whole process. That was an amendment brought about by the minister in committee. It is to his credit that