

*Criminal Code*

magistrate was Magistrate D. F. Graham, and that the case was heard in Toronto on May 31, 1966. Here is part of the transcript:

Magistrate: You have a family in Ottawa; are you prepared to get on the bus and get back to Ottawa?

Ann: No. I can get a job.

Magistrate: You haven't got a job, that is the point.

Ann: Yes I have.

Magistrate: Are you prepared to stay with the Salvation Army for a week?

Ann: Why?

Magistrate: Because I say so, that is why. We are not going to have you girls come to the city—

Ann: Well—

• (4:10 p.m.)

Magistrate: Listen to me when I am talking! I don't have to listen to you, do you understand? I am not your father and I am not somebody on the street, I am the magistrate in charge of this court and you have two choices—to do what you are told, or go to jail, do you understand that? That is your position now. Evidently you were wandering about without any home.

I suggest two things in this regard. First of all, that kind of talk by a legal officer of a court is the kind of talk one might expect in Fascist Germany or Communist Russia. I suggest further that no magistrate would dare use that kind of language if the person appearing before him were represented by counsel. Yet that kind of thing goes on all the time. I believe the government should have included in this omnibus bill a section to deal with the right to counsel.

I am interested in this subject. Several years ago the United States Supreme Court went into this question in great detail. A ruling was brought down which spelled out the right of every person to counsel. This right to counsel did not apply only to appearance in court but to the period during which a person may be interrogated by the police. My colleague the hon. member for Greenwood (Mr. Brewin) had a member of his firm draft a bill which would spell out this right. I have placed a notice on the Order Paper in respect of that bill. I suggest that the Minister of Justice look at that bill. It is Bill C-189, an act to amend the Canada Evidence Act. I will read one of the relevant clauses:

54. No statement shall be admissible in evidence against its author in any criminal proceeding if such statement was made while its author was in the custody of a person in authority unless prior to making such statement its author was duly warned by a person in authority that

(i) he was not obliged to make any statement, and

(ii) if he voluntarily chose to make a statement, it would be taken down in writing and may be given in evidence and,

[Mr. Orlikow.]

(iii) he was entitled to counsel and that if he could not afford counsel, one would be assigned to act on his behalf if he so desired.

It is not a very complicated subject. If this government means what it has been saying, if it really believes in a just society, I suggest that this bill should include the basic right of every citizen in this country to have counsel. That provision ought to be implemented now, not later as the Minister of Justice suggested it might be.

There is another important clause which I think is omitted from this omnibus bill; that is a clause assuring the right of every citizen to privacy. This clause should prohibit, if not completely at least except under very stiff conditions set forth in the law, wiretapping and electronic surveillance. The Prime Minister, in the brief which he submitted following his publication of this charter on human rights spelled out such a provision. I should like to quote from the *Ottawa Citizen* of February 2, 1968:

The right of the citizen to privacy from snooping would be included in a draft for a Canadian Charter of Human Rights, Justice Minister Trudeau told reporters.

The same thing is spelled out in detail in the Charter on Human Rights. The Prime Minister made clear that he is opposed to wiretapping. This subject has been discussed in this house and outside this house recently. There is now no question that wiretapping goes on in this country fairly extensively. Recently an article appeared as a supplement to the *Canadian Bar Review* in which this fact was spelled out. The article by Stanley Beck listed cases in respect of which there was complete evidence that wiretapping had been carried on. Also there was the inquiry by the royal commission in Vancouver, B.C. which revealed evidence that wiretapping had been carried on by a private investigator who was recommended by officials of the R.C.M.P. to the person who wanted the wiretapping done. When the royal commission wanted to bring before it witnesses from the R.C.M.P. in Vancouver, the Solicitor General forbade their appearance using the official Secrets Act as his reason for not permitting the members of the R.C.M.P. to appear. This is a fact which I am sure cannot and will not be disputed by anybody who knows that has happened.

There was wiretapping in Saskatoon. Some years ago, as reported in the Saskatoon *Star Phoenix*, evidence was produced that the only telephone that people incarcerated in the town jail could use had been tapped to permit