

This is in section 178.23, striking out the whole of subsection (1) and the whole of subsection (2)—lines 16 to 44. Would all those in favour so indicate?

Those against?

I declare the motion carried—one opposed, Senator Buckwold.

Senator Croll: Mr. Minister, you notice that Senator Buckwold stayed loyal!

Hon. Mr. Lang: I saw that.

Senator Cameron: He has got to live in Saskatchewan!

The Chairman: Chief Adamson says he wants to say something in addition to what he said before, on another point.

Mr. Adamson: This deals with the emergency permit. Our solicitor disagrees with the minister, and I wonder if Mr. Dagenais could say something about it. Is that permissible?

The Chairman: Yes

Mr. Jacques Dagenais, Legal Adviser, Montreal Urban Community Police: Mr. Chairman, as legal adviser to the Montreal Urban Community Police I would like to comment briefly on two solutions the Minister of Justice has set forth in trying to explain how the urgency section, as it is drafted now, could be workable.

I would say I disagree, with the utmost respect, because not only do I respect him as Minister of Justice but also as a distinguished jurist.

Mr. Lang has mentioned that in a case of urgency a new place could be tapped with a prior warrant. He mentioned that there is a reference to "places" in the bill. It says that not only the private line of an individual could be tapped but also places which would have been generally described.

The section is section 178.15—I am sorry, it is not the urgency section—it is 178.12, on page 4, at line 35.

If you read this carefully, it is apparent that "places" can be substituted for "individual" only when the names of the individuals are not known. The portion I refer to says that the affidavit of the police officer must mention

the names and addresses, if known, of all persons, the interception of whose private communications there are reasonable and probable grounds to believe may assist the investigation of the offence, and if not known, . . ."

Now, in a realistic police operation there is a certain number of individuals you do survey, and in such a case the persons in whom you are interested are known. I would interpret the section as meaning only in cases where you know that something is going to happen in a particular place, but the conspirators are not known to you, would you be allowed to mention in your evidence a general description of places. This would be the first point.

The second point is this. The Minister of Justice has said that we could comply actually with the urgency demand because it is always possible to phone a judge. But we have to realize that the demand of an urgency wiretap, as well as any wiretap, must be made by the designated agent of the attorney general. This means that to be realistic there might be one, two or three people in a

given police force who are the designated agents and who are the sole persons who can ask for an interception.

Imagine the following type of situation. I think the example of the telephone booth is a good one. There is a physical surveillance on fraud suspects, and then you see that they seem to have an interesting and a relevant conversation in a telephone booth. First, you have to reach your designated agent because, obviously, he is not part of the shadow team. If it is at the weekend, very likely he would be at home waiting for the call, but you cannot prevent his daughter or his wife from using the phone and it might take a little time before you reach him. Once you have reached him, then you must reach the judge. Even if we accept that the judge can be reached by phone, I am not sure that a judge would like to grant permission by phone. I should think that in such a difficult situation, because we are dealing with private lives and eavesdropping, he would certainly prefer to have the person before him. But let us say that the designated judge hears the demand on the phone. He must give a written authorization. The way I understand the law, you cannot commence your work unless you have written authorization; otherwise the law would have been spelled out that the judge could give oral authorization. If it has to be written, you must have it in your hands. So the way I see it, it is totally unworkable.

I refer to my experience as a crown attorney and adviser to the police. There is a recent case which happened in Montreal. Certain criminals were under surveillance and actually there was a fraud committed, at the expense of the Royal Bank, of half a million dollars. It was committed in England, but at the expense of the Royal Bank, by a group of Montreal people belonging to the criminal element. In that case, there came over a line under surveillance of one of the suspects the following message: "You are going to receive a telephone communication from England." They decoded the number of the line where the message was to be received, in England, but it was really a matter of minutes. Therefore, this is another good example. They had immediately to try and bug this line. If you put in the operation a delay of one hour or two hours, it is just finished.

Hon. Mr. Lang: Mr. Chairman, I must say I disagree with quite a few things the committee has just been told. I grant that you could take any provision and try to make out how it will not work. You know, when you have it and you have to make it work you see it in quite a different light, and I am seeing it as how it will work.

The judges will be designated. They will know that they are apt to be called at any hour. That is why they are designated. The senior people who are designated can be designated also in a way that will make it work. The senior investigating officer on duty may be designated for the purpose. It is a call to him that will start the call to the judge that will get the authorization in writing. It must be put in writing, presumably, so that there is substantial immediate evidence that in fact the authorization was granted. Whether, indeed, it has to be given to anybody is something I am not sure about, but, at the very least, it could be given to anyone in authority. It does not have to be given to the person who is going to make the tap or who asks for it.

So I think you will learn how to make it work and will make that one work without any difficulty.