

Protection of Privacy

him with respect to several criteria as set out in the bill. Then there is the distasteful clause which relates to the dispensation of this kind of detailed process when the situation becomes urgent. Thanks to the right hon. member for Prince Albert (Mr. Diefenbaker) we at least have been able to insist upon the applicant obtaining the signature of the judge upon the order.

I would be surprised if the penalties provided in the legislation were ever invoked. They will certainly not be invoked against the law enforcement agencies, whether electronic supervision is legal or illegal, because of the inability to detect these devices except by sheer accident. One of the most frightening aspects of the legislation is the provision which applies to the granting of authority to intrude electronically in cases affecting national security. The government did go part of the way with us when we extracted from it a definition of "subversion." But the phrase "national security" is still wide open.

There are many who believe that the thrust here is toward electronic intrusion in the investigation of cases which affect the national security of our country, from abroad. Nothing could be further from the truth. Quite apart from any knowledge I may have gained in committee, I know that surveillance activities are carried on with respect to so-called subversive groups in this country. An example which comes to mind is the army intelligence report prepared on the operation of the CNTU in Quebec. Some of the things said in that report were pretty far out.

The bill would allow electronic intrusion in respect of any matter which the Solicitor General (Mr. Allmand) might decide was one which could affect national security; for example, the leak of cabinet documents. There is not a single employee of the government whose telephone could not be kept under surveillance under this provision of the bill. The capability of doing precisely that certainly exists in the city of Ottawa. One would almost think that very well-laid plans had been made, in anticipation of the passage of this legislation, by the creation of the police and security planning group in the Department of the Solicitor General. In any event, the capability is there and the likelihood is there.

I do not believe for a moment that the Secretary of State for External Affairs would hesitate to go to the Solicitor General when his telegrams were leaked to the hon. member for Scarborough West, for example, and say, "Look here, Warren; we must put a tap on a few of these employees of mine to find out who is responsible for this leak."

Mr. Allmand: That would be illegal under the bill.

Mr. Nielsen: Not at all. As I read it, and I hope I am wrong, the bill permits the Solicitor General to grant a warrant for electronic intrusion in cases which he figures affect the security of this country. The supposed threat need not be external.

Mr. Allmand: Does the hon. member think the RCMP would agree to that?

Mr. Nielsen: They may not agree. But that is not the point. What is the army doing in the bill? They may not agree, but if the Secretary of State for External Affairs

[Mr. Nielsen.]

went to the Solicitor General and said, "I need help. We need a tap on a few telephones".

An hon. Member: No.

Mr. Nielsen: That is a serious enough matter. But suppose it were even more serious. I am sure the Solicitor General could be easily convinced that it was in the interest of national security to issue a warrant. That is what I think is wrong about the principle contained in this provision.

Frankly, I do not have a telephone in my apartment in Ottawa. And I am giving serious consideration to getting rid of the one in my office. I tell hon. members here, and anyone who calls me, "If you do not want to read or hear again anything you say on the telephone, don't say it, because that is the situation we are in." The Minister of Justice (Mr. Lang) shakes his head in disbelief.

Mr. Lang: Not in disbelief. At you.

Mr. Nielsen: He says responsibility will fall mainly on the shoulders of provincial Attorneys General. Well, God help us in the Yukon and in the Northwest Territories where the Minister of Justice is our Attorney General. All he has to do is exercise the powers of any provincial Attorney General. He exercises these powers in the north. The minister smiles. What is he going to do? I can tell him in advance. He is going to delegate that power, and he is going to delegate it most likely to the Crown attorney in the Yukon and to the Crown attorney in the Northwest Territories. And while I have great respect for the first appointee in the Yukon as well as for his successor, I certainly do not like the thought that a Crown attorney anywhere can exercise the kind of powers that are granted in this bill.

So I express these fears about the operative clauses of this bill. I cannot bring myself to vote against them, to vote against third reading, because I think wiretapping and electronic intrusion in all its aspects is a despicable level to which to resort in the investigatory process. I do not feel the proper guarantees have yet been written into the bill. But far more important is the fact that the activity is made unlawful even though application of the penalty provisions will be very remote. The very fact that it makes these activities unlawful is a far more important step to be taken.

● (2130)

Since wiretapping and electronic surveillance will be carried on anyway whether the bill is passed or not, the government is merely legalizing it by judicial control of this kind. Giving certain powers to the Solicitor General will not change matters. All it will do is to legalize something that is now illegal in terms of introducing evidence in court. As far as I am concerned, that is another unsavoury part of the bill.

Having said those things, I just want to sound one last warning. I think the provisions of the bill will be abused. I am convinced of that, and I shall sit back and wait and see. I am sure other members will discover that what I am saying now, and the fears that have been expressed by a good many members, will be realized notwithstanding the