



Bulletin

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LEGISLATION PROTECTS PRIVACY

The Minister of Justice, Mr. John N. Turner, introduced in the House of Commons late last month a bill to establish the Protection of Privacy Act.

This bill would create a new part of the Criminal Code, entitled Invasion of Privacy. Mr. Turner expressed the hope that its scope would be extended eventually to cover such matters as the information stored by computers and data banks, and other forms of surveillance.

The new legislation would make it an offence, for the first time, to intercept wilfully a private communication by means of electromagnetic, acoustic, mechanical, or other devices. A private communication is defined as any oral communication or any telecommunication made under circumstances in which it is reasonable for the originator to expect that it will not be intercepted by anyone other than the person for whom it is intended. "Intercept" is defined, for the purpose of the Act, as to listen to, to record, or to acquire a communication, or its substance, meaning or purport.

It would also be an offence to possess, sell or purchase any electromagnetic, acoustic, mechanical

or other device, or any of its components, knowing that the design rendered it useful primarily for the interception of private communications.

A third new offence would involve the disclosure of any information obtained by a person by means of an unlawful interception, or the disclosure, without proper authority, of information obtained lawfully.

EXCEPTIONS

The two basic exceptions to the general prohibition against interception of private communications would be:

- (1) where the interception or seizure is directed towards prevention or detection of espionage, sabotage, or any other subversive activity directed against Canada, or detrimental to the security of Canada, and where such interception or seizure is necessary in the public interest; or
- (2) where an authorization has been obtained from a judge of a superior court of criminal jurisdiction in aid of a criminal investigation.

Provision is also made in the bill for certain other exceptions. Interceptions would be excused where a person intercepts with the consent of only one of the parties to a communication, or where the interception is necessarily incidental to the ordinary duties of an employee of a telephone company.

Before a judge grants an authorization to intercept a private communication, he must be satisfied that:

- (a) other investigative procedures have been tried and have failed;
- (b) other investigative procedures are unlikely to succeed; or
- (c) the urgency of the matter is such that it would be impractical to carry out the investigation of the offence using only other investigative procedures.

Authorization can only be granted in respect of indictable offences, and it will not be valid for more

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