

Protection of Privacy Bill

The bill would also amend the Crown Liability Act to provide that where a servant of the federal Crown commits an offence under the provisions of the act, the federal government would be liable for all loss or damage caused by his actions. Provision is also made for the recovery of punitive damages in an amount not exceeding \$5,000.

Another safeguard proposed is that there be a full reporting system. The Solicitor General of Canada would be required to prepare and lay before parliament each year a detailed report relating to applications made, authorizations granted and refused and interceptions carried out. Details would also be required on emergency permits. The attorney general of each province would be required to prepare and publish a similar report. The purpose of these provisions is to bring to the public notice of what activities have taken place in the past year.

Mr. Douglas: Mr. Speaker, may I be permitted to ask the minister a question. With reference to the temporary permits granted by an attorney general of a province and the other authorizations in the province which are instigated by him, to whom is his report made? Is it made to the legislature or to the Solicitor General of Canada and tabled in the House of Commons at the same time the Solicitor General makes his own report?

Mr. Lang: Mr. Speaker, the bill in its present form is silent as to how the report should be made public. It simply requires it. In that sense, it leaves it up to the individual attorney general to satisfy the requirement. I think it could be satisfied in any of these ways, including tabling in the legislature by the attorney general, making it public without tabling or by returning it to the solicitor general for tabling here. We think any of those ways would be satisfactory. It is a political accountability in action, and the furtherance of a discharge of responsibility which I mentioned earlier that the government should inform the people of the manner in which their business is being conducted.

The proposed legislation recognizes a right of privacy. Its purpose is to protect that right from invasion involving modern technological surveillance techniques. I believe it does accomplish this purpose, while maintaining the balance between the rights of an individual and the rights of all individuals as protected by the state.

Again, as with the legislation amending the Criminal Code with which we have just dealt, I anticipate useful comments by members opposite in the House and in committee. I look forward to the adoption of this legislation. We have long recognized the need for a move in the field of protection of privacy. Most of us also recognize the need to balance this with adequate power for enforcement officers to perform enforcement functions for the protection of us all. This legislation, which seeks to find that balance, is important. I think it will make a useful contribution to the law and I commend it to hon. members.

Some hon. Members: Hear, hear!

Mr. Robert McCleave (Halifax-East Hants): Mr. Speaker, on behalf of the members of the House, I want to thank the Minister of Justice (Mr. Lang) for the full statement he has made on the purposes of Bill C-6. The subject matter

[Mr. Lang.]

of this bill has percolated through the parliamentary process over several years. I think mention should be made of a measure introduced at one time by the hon. Mr. Justice Larry Pennell of the Supreme Court of Ontario. If one examines the report embodied in *Votes and Proceedings* of Wednesday, March 11, 1970 one will find there were measures presented by the hon. member for Surrey-White Rock (Mr. Mather), the hon. member for Timiskaming (Mr. Peters), the present Minister of Communications (Mr. Stanbury)—I hope I have identified Mr. Stanbury correctly—and the hon. member for Winnipeg North (Mr. Orlikow). Thus, because it has received good support, I believe the passage of the bill before us will be easier than had the subject been freshly introduced.

• (1600)

One of the provisions in this bill represents a signal victory for the parliamentary committee system over the government. Another provision leaves much to be desired—I shall draw attention to both these aspects as my short speech progresses.

First, as to the purposes of Bill C-6. As I say, there are really three main provisions. Wire tapping becomes illegal, though it can still be done under certain circumstances under an element of judicial control. There is provision, in the second place, for civil liability to be accepted by the Crown. This is interesting, because when the question of wire tapping as a James Bond tactic is raised, the Crown looks innocent and says such things do not happen. Now, it says: they do not go on, but we shall assume liability and responsibility should they go on and should damages be awarded. This is in harmony with some of the Alice in Wonderland aspects of modern society. The third point is that wire tapping becomes legal if it relates to the security of the country. It is the provision of the law in the absence of adequate safeguards that I shall be challenging later in my speech, and also when the measure goes into committee. I shall try to make at least a suggestion which might be considered by other hon. members, by ministers and by the government, and if this formula for safeguards is not sufficient, I hope someone will come up with an acceptable formula for safeguards with respect to the third element.

It might be noticed that though the Minister of Justice (Mr. Lang) is piloting this measure through the House and presumably before the committee, it will be his colleague on the legal side of government, the Solicitor General (Mr. Goyer), who will be receiving reports. I mentioned earlier that there was a victory for the parliamentary committee system implied in one provision which is contained in Bill C-6. This was the element of judicial control. The predecessor of the present Minister of Justice had made a case for control by the Minister of Justice himself. To do the minister justice, and he always does himself justice when he makes his arguments, he was making a case on the grounds that, while the Minister of Justice is a political animal he is also an accountable animal, whereas a judge of the Supreme Court is not. In short, that if abuses spring up with regard to permission to operate wire taps, the Minister of Justice would be embarrassed if these abuses were sufficient to cause a public outcry, and this in itself would be a deterrent to abuses of the system. However, the committee felt, on reflection and on balance of