

that are left out, Mr. Speaker. It is just a basic principle that a definition section which is made to appear like a grocery list is always bound to leave out something important.

● (1610)

In addition to that, a concern that we have in our fight against crime, which is something that I think all hon. members have to take into consideration as well, is the fantastic imagination of criminals today. Indeed, I am sure they are inventing offences that are not even in the Criminal Code. The imagination and cleverness of criminals is something that is not taken into account in this kind of definition section. I like to think of the other safeguards contained in the bill where the police, or the attorneys general as the case may be, or their agents—and here another amendment will be coming forward on whether or not they will be agents—have to make applications to judges for permission for police forces to wiretap. We will be talking about other restrictions on applications to wiretap.

Reference has been made to a generic definition of indictable offences. The hon. member for St. Paul's theorized that indictable offences include minor theft and a number of offences that take place on a day to day basis. He mentioned impaired driving, to reduce the argument to absurdity, but he is totally overlooking the fact that an application must be made to a judge. Is it likely that an attorney general, with a generic definition section such as that contained in the bill, would have the nerve to make an application to a judge to use wiretapping on an impaired driving investigation or a minor theft or common assault or any other offence that you could list if you want to use that side of the argument? Of course, it is not. No attorney general would make that kind of application. Even if he had the temerity to do it, surely no judge would grant an application unless the offence contemplated was of such a serious nature as to warrant that kind of electronic intervention. I think that kind of safeguard makes sense, and with that sort of safeguard in mind, I think it is weakening the quality of the bill to adopt this kind of categorical definition section.

I also ask hon. members to look ahead to the time when we will be dealing with amendments with regard to giving notice to persons who are not charged and to the form of charge that is delivered to a person if an investigation is carried out under this definition section. If the investigators are tied to one of these categories and make their application for permission on the basis of one of the categories contained in the amendment before us and then, in the course of that investigation they uncover facts which lead them to an indictment for something that is a related offence but is not contained here, they could be in great trouble in attempting to come to trial. It could be that the order for a wiretap would be ruled out by virtue of the fact that they did not proceed specifically within these categorized definitions. If that were the case, I think it would place an unnecessary procedural burden on the investigators who might have uncovered a closely related offence to one of these categories, close enough that it would not be in any way unethical for them to carry out the investigation or to proceed with the other indictment but yet, because of these categorical definitions, I could

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see that they might be in great difficulty in attempting to get that evidence introduced at trial.

In other words, Mr. Speaker, I think that with the safeguards that are built in, and I refer not only to the application by the attorney general to the judge but also to the serious penalties that would be visited upon investigating officers who violated the provisions of this act, such as imprisonment or dismissal, I submit there is absolutely no danger in leaving the police at least this power.

Finally, Mr. Speaker, I also note that the definition section which is put forward in the amendment is, in its first part, a list of specific offences in order to get around the alleged evil of the definition in generic terms in this bill. Then, in the last part, the amendment goes back to precisely the same kind of generic terms that are contained in the definition section of the bill. I think what happens is that we have now got the worst of both worlds. We are saddled with the shortcomings of the categorical definition in the first part of the amendment and then, in the second part of the amendment, we are faced with words which are subject to precisely the same complaints the hon. member made about the definition section in the bill.

I submit therefore, that far from improving the definition section in the bill, this amendment weakens it severely and weakens the quality of the bill. That is the reason I voted against it in principle in committee, Your Honour, and the reason I would vote against it in the House.

[*Translation*]

Mr. André Fortin (Lotbinière): Mr. Speaker, I considered the amendment introduced by the hon. member for St. Paul's (Mr. Atkey) and I tried to fit it in Bill C-176, an Act to amend the Criminal Code, the Crown Liability Act and the Official Secrets Act.

The proposed amendment seeks to change the definition of the word "offence" contained in the bill and the hon. member for St. Paul's tried to define the cases in which the use of electronic devices could be allowed. He did so very specifically.

Mr. Speaker, in the bill as it stands the word "offence" is defined in a very general way. There is nothing specific and it includes everything. On that I will agree with the hon. member who spoke before me. Mr. Speaker, I think the bill would be weakened if those cases were specified.

I understand what the hon. member for St. Paul's wants to do. He would probably want to limit the effect of the bill while agreeing with the principle of its use but, Mr. Speaker, it seems to me that definition should not include the details of all possible cases. A general definition of what is meant by offence would be preferable.

Mr. Speaker, I would like to deal with this problem as it applies to the whole bill. This bill seeks to define clearly the use of electronic listening devices. It seeks to set out very clearly the cases in which a listening device could be used and the offences resulting from the use of such devices in certain cases.

Mr. Speaker, I am particularly concerned about clause 178.15(1), at page 7, and clause 178.13 (1), at page 5. Those two clauses give the political power the authority to intervene in the issuance of a permit with respect to the use of