

anyone using the broadest interpretation possible of the remarks of the hon. member for Peace River would suggest that the judicial system and the discretion of that system is under attack. Far from it.

In my view, it is the unhappy position in which the legislation has put our judicial system which is under attack. Last night in committee we heard about a law case in British Columbia—the longest ever held in that province, lasting some seven and one half months, I believe—in which it was ruled that counsel for the accused could not cross-examine in any way the propriety of the warrant which led to the use of electronic surveillance. If the order had no defect on the face of it, then defence counsel had no right whatever to determine whether the warrant was issued properly.

Since we are now talking about postal interceptions, and particularly in the light of national security, I am disturbed even further. In the case of postal interception there is no judicial warrant; it is a warrant under the proposed legislation of the Solicitor General (Mr. Blais). Who watches the Solicitor General? Under the proposed legislation, no one watches the holder of that office.

A colleague of the Minister of Transport said last night—I do not think he was advancing this as a proposed amendment, although he was certainly advancing it as a suggestion for discussion by the committee—that the Solicitor General in his annual report should report to a committee of three judges of the Supreme Court of Canada. I put forward, again for discussion last night, the suggestion that before a warrant is issued we might consider a system whereby, on the national security side under the Official Secrets Act, the Solicitor General, rather than being the judge of whether a warrant should be issued, should be the applicant to a judge for a warrant.

I do not necessarily advance this as a policy of my party because I believe that the motion today is right on target and should be sent to a committee for extensive study. If I had the good fortune to be a member of such a committee I would not feel I was examining anything in the abstract. I would feel that suggestions such as the one which came from a Liberal member last night regarding reporting annually to a three-man committee of the Supreme Court of Canada would be an important and vital proposition to discuss. This is something very urgent and not in the abstract at all. Similarly, I hope that such a committee would consider the suggestion I made last night, that the Solicitor General should be the applicant for a warrant rather than the issuing officer for a warrant to intercept mail.

There are those who might argue that such a course would be an abdication of ministerial responsibility to the judiciary. I am willing to be persuaded, although I fail to follow the argument presently. It is one which has been advanced from time to time but, again, I would not anticipate that a discussion in committee about such a thing would be a discussion in the abstract. I believe it to be rather mundane. If I wished to be highly partisan here, I could say that under no circumstances is an abdication of the doctrine of ministerial igno-

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rance advanced by the Prime Minister (Mr. Trudeau) whe-reunder if a minister is ignorant of a situation he is not responsible for the situation. I will refrain from doing that, Mr. Speaker, but under the more commonly accepted doctrines of ministerial responsibility I would think an argument could be sustained wherein judges of the Supreme Court of Canada could be the issuing authority, without taking away one whit from ministerial responsibility, of warrants under the proposed legislation to permit the interception of mail.

My final point, Mr. Speaker, goes back to what the Minister of Transport said earlier today. He kept using such words as "rhetoric" so often that it was sometimes very hard to get the point he was making. I do not wish to do him an injustice, but it seems to me he was suggesting that publicity, attendant upon a trial such as the Treu trial, would work against the interests of justice. I really cannot accept that premise. I was always under the impression that publicity protects against injustice.

An hon. Member: Right!

Mr. Jarvis: I always thought of that as a principle. As an officer of the court and as a defence counsel I always accepted the principle that one of the important things in the administration of law was publicity. I always attached importance to the view that publicity in itself worked to prevent either injustice in a specific case or future injustice. Yet if I understood the Minister of Transport today, he appeared to be advancing the proposition that publicity about a trial such as the Treu case would work an injustice or would constitute an attack on the judicial system. I do not see that point of view.

I am quite anxious to read the report of what the minister said because, as I have indicated, I found him difficult to follow because of his rhetoric. When we have trials in secret, without publicity, no one can gauge the wisdom of the verdict, no one can gauge the fairness of the sentence and, most important of all, no one can gauge whether or not a secret trial was necessary in the first place to protect the interest of the state. On these three crucial points no one, least of all the public, can sit in judgment as to the efficacy of that particular trial.

To my colleagues, particularly to those on the government side, I commend the necessity of taking some form of positive action wherein the Official Secrets Act is reviewed by the Standing Committee on Justice and Legal Affairs, by a special select committee or by some parliamentary committee, rather than waiting for some legislation or white paper from the government. To do otherwise, in my view, would be to deny this country and its citizens, the justice they have earned and the justice they deserve.

I am most obliged to my colleague, Mr. Speaker, the hon. member for Peace River, for bringing this motion before us today and I am most pleased to have had the opportunity of participating in the debate, one which I believe to be of the utmost importance.