

*Protection of Privacy*

is left in the hands of the minister. In fact, far more discretion is left in the hands of the Solicitor General under the Official Secrets Act than rests in the hands of the Attorneys General under the Criminal Code. Thus, this is one of the most dangerous areas in terms of invasion of privacy that can be found in the legislation. Yet up to this point the House has not seen fit to rely on the judiciary.

Why should we not wish to protect innocent victims of wiretapping carried out under the cloak of the Official Secrets Act? The argument that this is a special area is based on one premise—the judiciary cannot be trusted to deal with applications under this clause. This attitude is, in my view, an insult to the judiciary. We should be placing our confidence in the discretion of the judges and their ability to protect the liberty of the subject. I urge the House to amend this clause by providing the same protection to the citizen in the area of the Official Secrets Act as has been in respect of the Criminal Code.

**Mr. Fairweather:** Mr. Speaker, I thought members on the government benches, which are bursting with ministers signing their mail and backbenchers reading the papers, would probably wish to take part in a serious discussion on this important issue. But if they want us to go on—

**Mr. Turner (Ottawa-Carleton):** We are listening.

**Mr. Fairweather:** Perhaps it is time for the Minister of Finance (Mr. Turner) to listen.

**Mr. Lalonde:** There are only two Tories in the House. Where are the rest?

**Mr. Fairweather:** Mr. Speaker, as far as I am concerned, when the time comes to account for actions taken in this House, the one I am most ashamed of is the vote on second reading in favour of the War Measures Act. I will always be glad that I changed my mind on third reading because I found there was no possibility of the government providing any adequate appeal procedures. I think that was one of the saddest chapters in our history.

**Mr. Bell:** They were after votes then.

**Mr. Fairweather:** That is why I think we are dealing now with an important clause. An interesting study has just been completed in the United Kingdom, on the subject of the Official Secrets Act, under the distinguished chairmanship of Lord Franks. The trouble is, when I ordered a copy from Information Canada they did not know for some time whether it would be possible to give me a copy of the report because they were not sure whether or not it was secret.

We in Canada caused a study to be made of the Official Secrets Act. It was disappointing failure. It produced a report which made no substantial recommendations for reform in this, one of the most outmoded sections of the law. In Britain they are moving toward a fundamental revision of the Official Secrets Act. As far as I can see, this whole matter of the government wanting secrecy had its origin late in the seventeenth century or the early part of the eighteenth century when governments thought it very

[Mr. Leggatt.]

important that advice they were getting both on the home front and from abroad should be a matter of secrecy.

• (2050)

Just a year ago when I was in New York at a seminar on the matter of secrecy, a person in the United States government said that there were some 4.5 billion pieces of paper in a facility somewhere near Washington which were secret and classified documents. It seems to me, as a simple layman, that this mass of documentation in itself, if sought for the purposes of research by scholars and other interested persons, would be practically impossible to obtain.

I hope this government will soon convene another study group to take a very searching look at the Official Secrets Act of Canada with the expectation that it will be able to follow some of the advice on this matter given by the Franks commission in Britain. I share in a personal way the view of the hon. member for New Westminster (Mr. Leggatt), that it is not a bad idea for government—I say this although I have the greatest amount of respect for professional and political people—should take a second look at emergency situations. I think the people to whom I refer let Canada down in an unfortunate way. We had a major reaction, very much overblown, and I am still very sad about the vote I cast.

That is why I would prefer, personally, to leave this matter to judicial scrutiny, because I think there can be involved in government programs people who would not be prepared, or not able, to place before judicial officers sufficient support for their points of view in order to sustain a judicial order. The situation to which I referred exposed as a very sad part of contemporary Canadian history an unfortunate reaction on the part of governments which sought to avoid the judicial process. This has happened on one or two other occasions. I cannot remove the scar of the War Measures Act from my conscience.

**Mrs. Morin:** You should have been the prime minister of the province of Quebec; then you would have thought differently.

**Mr. Fairweather:** I have had a lot of compliments tonight, but I think the hon. member's colleagues said that even though my French is not very good, at least I had a bilingual mind, which would qualify me for the prime ministership of Quebec.

**An hon. Member:** If you lived in Quebec.

**Mr. Fairweather:** Had I been the prime minister of Quebec I do not think I would have invoked the War Measures Act; and had I been the prime minister of Canada I hope I would not have invoked the provisions of that act. Be that as it may, I think this is a time for soul-searching.

**An hon. Member:** I would hope that you do.

**Mr. Fairweather:** I hope the hon. member for Louis-Hébert (Mrs. Morin) will give us another example tonight of the type of speech she made on another occasion. Speaking quite frankly, what she said caused a cold chill to run down my spine, and I know as a personal matter that it