

Hon. Mr. GRIESBACH: I think, honourable senators, that every one of the sections in this Bill is the result of some actual occurrence, or some experience which gives grounds for fearing the possibility of occurrence. The subsection referred to by the honourable gentleman from Ponteix (Hon. Mr. Marcotte) would cover an incident such as honourable members will recall having read of about four months ago, when the diplomatic bag of the British Minister in Spain was used by a spy for transmission of documents to London. The porters and other officials who carried the bag were of course quite innocent as to its contents. Similarly, one of our own Mounted Police, or any other Canadian official, might be an innocent party to improper transmission of secret matter in a bag or package that he carries from one place to another. If such a person were arrested, his defence would be that he had no knowledge of the contents of the bag or package, and that the illegal transport had been contrary to his desire. I believe the section would not be in the Bill but for some actual occurrence, or some experience showing the possibility of a certain type of occurrence and the necessity of providing against it.

Hon. Mr. MARCOTTE: I could understand the subsection if it read "any official person," but it says "any person." Cases of the kind referred to by the honourable gentleman from Edmonton (Hon. Mr. Griesbach) are not the only ones covered by this provision. As I said a moment ago, any person might be the innocent recipient of secret information sent by registered mail. I am not opposed to the purposes of this section, nor to those of the Bill; I am perfectly in accord with them. I am simply pointing out what seems to me a dangerous feature of this subsection.

Hon. Mr. GRIESBACH: Subsection 4 of section 3 provides:

A person shall, unless he proves the contrary, be deemed to have been in communication with an agent of a foreign power if—

(i) he has, either within or without Canada, visited the address of an agent of a foreign power or consorted or associated with such agent.

I had intended moving an amendment to that, but I find that paragraph (c) of this subsection, on page 4 of the Bill, says:

Any address, whether within or without Canada, reasonably suspected of being an address used for the receipt of communications intended for an agent of a foreign power, or any address at which such an agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, shall be deemed to be the address of an agent of a foreign power, and communications addressed to such an address to be communications with such an agent.

Hon. Mr. MARCOTTE.

A spy in a foreign country never has information forwarded to him at his own address; he arranges for what are called "post offices." A common type of such "post office" is a small shop, say a corner grocery store. The spy makes a few purchases, to get himself known, and then says his business takes him out of town a good deal, so that he has no permanent address, and he asks permission to have mail sent to him in care of the shop. Having secured that permission, he will give the address of the shop to agents whom he employs to do jobs for him. The storekeeper will of course be entirely ignorant of the fact that his premises are being used as a "post office" for an enemy of the State. But if the authorities traced delivery of any secret information to such premises, the storekeeper would be required to prove his innocence, under subsection 3 of section 4, to which my honourable friend from Ponteix (Hon. Mr. Marcotte) is referring.

I repeat that I believe every section of this Bill is meant to cover something that either has actually occurred or is visualized by the authorities as possible.

Hon. Mr. DANDURAND: I think protection for an innocent person lies in the fact that he would have only to prove his good faith to be acquitted.

Hon. Mr. MARCOTTE: True. But he might be put to a lot of expense in doing so.

Hon. Mr. GRIESBACH: That cannot be helped.

Section 4 was agreed to.

Sections 5 to 10, inclusive, were agreed to.

On section 11—search warrants, in case of great emergency:

Hon. Mr. GRIESBACH: Subsection 2 of section 11 is the one to which reference was made a little earlier by the right honourable leader on this side (Right Hon. Mr. Meighen). It provides:

Where it appears to an officer of the Royal Canadian Mounted Police not below the rank of Superintendent that the case is one of great emergency and that in the interest of the State immediate action is necessary, he may by a written order under his hand give to any constable the like authority as may be given by the warrant of a justice under this section.

I do not know what the actual proportion is now, but there are probably four or five inspectors to every superintendent in the Royal Canadian Mounted Police. In the old days all the inspectors in the North West Territories were justices of the peace, and they may still be. I think the word "Superintendent" should be deleted and the word