

● (1550)

If we look at the existing definition of an offence under the bill we find this:

"offence" means an offence created by an Act of the Parliament of Canada for which an offender may be prosecuted by indictment and includes any such offence that is alleged or suspected . . .

Most lawyers pay income tax.

**An hon. Member:** We all do.

**Mr. Leggatt:** Some pay more income tax than others.

**Mr. Alexander:** You are right on there.

**Mr. Leggatt:** It is not unknown in the history of this country that persons have paid their legal fees over the counter and have not received a receipt. If there is a probability that such a person may be evading income tax payments, under the terms of this legislation authorization could be obtained, and likely would be obtained for a wiretap. If such evidence came to hand, and if there were some reason for suspicion, then if such authorization were obtained that criminal lawyers' line could be tapped and any of his clients who happened to phone that particular criminal lawyer would have their conversations tapped and would be liable to prosecution. In such a situation, the whole question of the matter of privilege between solicitor and client becomes eroded.

I am pleased to see that the amendment proposed by the hon. member for St. Paul's (Mr. Atkey) covers this. He has not provided an offence in respect of the Income Tax Act. In fact, the criminal law provides that any violation of a federal statute, when not otherwise specified, is an indictable offence. Therefore, when one considers the question of how much wiretapping the bill as it now stands prevents one finds that it prevents very little. There has been some improvement. The bill will reduce to some extent the use of the wiretap, but there is no question that as the bill presently stands it is an open invitation to just as extensive wiretapping as we now have.

I do not know whether the hon. member for St. Paul's obtained the answers he requested, but it is interesting to note the questions he asked. One of his questions dealt with the number of taps that had been placed during the fiscal year 1972-73 by the RCMP. As I recall the figure, there were 663 taps placed and, as a result of those 663 taps, four prosecutions were developed. Two of those four prosecutions were successful. The percentage rate of success is one-third of one per cent in respect of 663 wiretaps. If one were to take those 663 wiretaps into consideration and imagine the number of people who would use a particular phone in a particular room which contained an electronic device, one would come up with a figure of perhaps 250,000 conversations which were listened to as a result of those taps.

What is even more significant is another question the hon. member for St. Paul's asked. He asked how many of those taps would have been prevented by this bill. The answer was 129. That is why I stand here criticizing this bill. It is entitled "the Protection of Privacy Act". The purpose of the bill is to protect the right to privacy. I submit it simply does not do that. You know, there was a book published a long time ago called "1984" by George

### *Protection of Privacy*

Orwell which has been referred to many times. In ten years it will be 1984. It is later than we think. All the devices that were shown in that book are now within the capability of our electronic industry. The subtle oppression that results from the use of wiretapping is very hard to measure but becomes overwhelming.

The right hon. member for Prince Albert (Mr. Diefenbaker), a long time ago, introduced, to the delight of civil libertarians all across the country and with congratulations from this party, his own party and from I think the government party, a Bill of Rights. In that Bill of Rights clause 1(d) provided that every person in this country shall have freedom of speech. One way in which we lose freedom of speech is through the fear that we may be listened to. That lack of freedom comes about through the use of self-censorship. One cannot have a frank conversation with someone over the telephone if one is not sure whether or not the telephone is tapped. If you were to ask the people in this chamber, Mr. Speaker, if they believed their conversations had ever been tapped, I think they would probably say yes. That belief may be false, but that is not the point. The point is that when these electronic devices are used they become insidious. This practice infringes not only on the rights of those being overheard but also on the rights of those who may think they are overheard. That is the key to our criticism of the bill.

To return to amendment No. 2, I hope this party will support it. I know I will. I believe it improves the bill substantially. If we allow the police to use this device in respect of a wide range of offences, we may find that they are occasionally successful. We have seen, according to the figures produced by the RCMP, that the rate of success is one-third of one per cent. On balance, we must consider what we lose by means of this electronic toy. We must ask whether these convictions would have occurred in any event. We must ask ourselves what better investigatory means were abandoned and not used, such as the undercover agent, which has been infinitely more successful in respect of the rate of conviction in the drug field.

The situation may become similar to the one related to the use of the motor vehicle. When the motor vehicle was first used by the police, it was very effective in preventing crime. When the motor vehicle first appeared, it was found to be convenient and enabled the police to get around faster. Today, possibly the police would be more efficient if they did not rely so much on the motor vehicle. Perhaps there would be better law enforcement if we could get the police into the communities and out of their cars. This device is wasteful of a police officer's time. It is expensive, inefficient and extremely unsuccessful. A very complete study was made by Dr. Schwartz of New York University. It was found that most of these devices were used in respect of gambling. The reason was not clear but perhaps one reason was that someone wished to make sure that the guy on the beat was getting a pay-off.

● (1600)

In any event, these devices were used for the detection of gambling offences, in vice cases and for all of the consensual types of crime. The success rate was insignificant, but the effect was to erode the cherished possession of privacy each time they were used. People say that you cannot be an absolutist on the subject; you must have