

Measures Against Crime

of us would consider to be going too far. I would regret very much if we did not wish to ensure, through some sort of mechanism, that those who have been subject to such surveillance be made aware of it, particularly because I believe that without some sort of notice provision it would become much easier for illegal wiretaps to be conducted and not brought to the attention of the authorities.

It is my hope that the committee, when it is conducting its consideration, will look carefully at the proposition in clause 10 to repeal what I think is an important safeguard in the present legislation. It may be that the committee will be able to come up with other safeguards that meet my concern effectively. It may be the committee will decide to return to the original 90-day provision. It may be, for instance, that when applying to the judge, the judge could determine the period within which the citizen under surveillance must be informed of the fact. I suppose these questions of detail should not be discussed at this stage, but I hope the committee will look very seriously into the concerns I have expressed.

● (1550)

With relation to the wiretapping provisions, my second concern is the proposal in clause 8 to amend section 178.16 of the Criminal Code. The effect of this amendment is to enable indirect evidence, found through an illegal wiretap, to be used in court cases. I can understand the frustration of police officers, coming across evidence which would establish clearly that a person has been guilty of great crime that that evidence is not admissible because it has been obtained as a result, not directly but as a result of further investigatory work, of information brought to their attention through an illegal wiretap. However, I do not see how one can get around the basic problem that if such evidence is to be admissible, it obviously provides an incentive to police authorities to engage in illegal wiretaps knowing that, at worst, the information they are able to collect through them would be available to the court and would be brought to bear against those they wish to prosecute.

There is no incentive in this provision to persuade police officers not to undertake that kind of illegal activity, and because of the nature of wiretapping it is extremely difficult for illegal wiretaps successfully to be brought to a conclusion. Perhaps hon. members could inform me of some, but I do not know of any prosecution or charge which has been made in relation to police officers using illegal wiretaps. I think it would be extremely difficult to bring such charges. Under those circumstances, I think we should do what we can to restrict the incentive for police officers to undertake illegal operations in a way which can lead directly to further information which will help them in the course of their work.

Perhaps I would say, parenthetically, that I do not wish my remarks to be interpreted as an indication that I believe police forces regularly, or as a matter of course, undertake such illegal wiretaps. That is not my argument at all. I have great respect for our police forces. I have on occasion gone out with the police in Toronto in their work at night, and I have tremendous respect for them. That is not my point. My point is that I think it would be wrong to establish, through this legislation, any incentive which might encourage police officers to undertake illegal actions

[Mr. Roberts.]

in the knowledge that such illegal actions might be helpful to them in the prosecution of their work.

Some hon. Members: Hear, hear!

Mr. Roberts: Those are my concerns, and I hold those concerns even though I support very strongly the principles of this legislation and wish to see them implemented. Therefore, I am hopeful that the House will finish its discussions at this stage as quickly as possible so we can get the matter into committee and consider some of these concerns and others raised by hon. members. I hope the committee will see fit to make some changes to take into account the kinds of concerns I have expressed. I hope we will be able to bring this legislation back into the House quickly, have it passed and operating effectively in order to assist in the provision of peace and security for the Canadian public.

Mr. David Orlikow (Winnipeg North): Mr. Speaker, if hon. members of the House have listened to this debate, or if they listened to any of the discussions which have taken place in the House or in the committee which dealt with matters of justice in recent years, they would have heard calls for toughening up our laws and calls for dealing in a much more strict way with criminals who break the law. One cannot help being struck by the difference in views expressed by many members of parliament who are—and I recognize this—expressing the views of their constituents. However, let us compare those views with the views of every expert group, every expert committee and every expert commission which has been appointed by federal or provincial governments in recent years.

I have before me the latest report of the Law Reform Commission which was published just a week or ten days ago, entitled "Our Criminal Law". The Law Reform Commission is a very distinguished group headed by Mr. Justice Patrick Hartt of the Ontario Supreme Court. It has been studying the questions of criminal law for, I think, five years. I want to put on record just a couple of sentences from its report, as follows:

In theory the law aims to promote humanity. In practice it is frequently itself inhuman. Canada, it has been shown, is one of the harshest western countries when it comes to use of prison sentences. Many of the terms imposed are too long, half the people in prison should never be there, and so many are in jail that those few needing real care and attention cannot get it. Indeed the whole system resembles a vast machine sucking people in one end, spewing them out the other and then sucking them back in again—a self-generating mechanism, certainly not a human process.

Then it says something which so many have said in this country, both in parliament and outside:

For all the respect we pay to justice and equality, we still have one law for the rich and another for the poor.

Why is there this fundamental cleavage, not between do-gooders and the ordinary citizens but between experts such as those who served on the Law Reform Commission or those who served on an earlier committee headed by Mr. Justice Ouimet? Why that difference? It seems to me there are several reasons for that: first, because there has been in Canada, as in every other country, both in the eastern world and the western world, a sharp increase in crime in recent years; second, I think it is because every year or two the public reads a report from one of these commissions