

Protection of Privacy

dence about a specific offence. The rule of law is founded on the proposition that governments can protect their people without acting unfairly or immorally themselves in any way. We shall not bring about a lawful society until people have respect for the law, respect for those who enforce the law, and, most important, respect for the means by which they enforce the law.

Hon. Otto E. Lang (Minister of Justice): Mr. Speaker, I must begin by saying I find it a little strange to hear a couple of speakers talk about inflexibility and the position of a minister when a bill comes back to the House. Other members have spoken about the flexibility of the way in which this bill has generally been handled. The bill, as it developed, followed very largely the outlines of the recommendations of the parliamentary committee, a committee which was not divided but which was mainly in agreement.

I found it amusing that, while the right hon. member for Prince Albert (Mr. Diefenbaker) is proposing an amendment on a subject which the committee decided to include in the bill, he and the hon. member for New Westminster (Mr. Leggatt) should accuse me of being wrong in proposing any amendment at all to the work of the committee. I take it the position is that in the House we can discuss these matters in a final way amid a full gathering of all members. I do not challenge the right of the hon. member for Prince Albert to seek to reverse the decision of the committee, a committee in a minority government, which sustained the emergency power in the bill, nor do I question the propriety of his doing so.

The emergency power provision represents a very small area of the bill's operation. I should like to emphasize what a small area it covers, bearing in mind the tone of voice which alone among hon. members of this House the right hon. member for Prince Albert can achieve. That made it look monumental. The fact is that in this area of emergency permits we have in play two extremely important forms of protection in relation to the use of wiretapping devices. There is the full political responsibility of the Attorney General who must himself, or by a person specially designated for the purpose of the section, authorize the use of an electronic device in case of an emergency. In addition, the person authorized by the Attorney General must be satisfied that the other provisions related to wiretapping are complied with, namely, that other investigative procedures would be unlikely to succeed, that others had failed, and that the urgency of the situation required this kind of procedure to be used. He must be satisfied about all those things. In addition, he has to be satisfied that there is not sufficient time for an application to be made to a judge to obtain authorization, the normal method by which law enforcement officers may obtain authorization under the bill.

I find it difficult to understand how some members can come down so hard against relying on the authority of the Attorney General in this instance while arguing, at the same time, that a judge should not be involved in the process. On second reading of this bill, members in both the New Democratic Party and the Conservative Party took such a position. I think the hon. member for St. Paul's (Mr. Atkey) was consistent. Here, the full responsibility of the Attorney General is involved in the issue of these

[Mr. Leggatt.]

emergency permits. They are valid for 36 hours only and they are designed to be used in a situation where the nature of an emergency will not allow for a judge being approached in time. In addition to authorizing the application, the Attorney General is obliged to report on what he has done. If hon. members will look at the reporting provisions, they will find they are very full indeed. The reports must be made public, disclosing to public view and political debate what has been done.

In the case of emergency permits—the hon. member for New Westminster seems to have missed this point—the Attorney General must indicate that the permit was either followed by an application or that he revoked it. The act provides that the agent who authorized such a permit must promptly report to the Attorney General so that further action can be taken by him with regard to it. He has to say whether he has revoked that permit and, obviously, this will provide an opportunity for political questioning about the use made of any such permits which may have been revoked. If an application is made, the Attorney General must indicate whether he approved or did not approve of the issue of an emergency permit. Again, the exact nature of the use of the permit can be made the subject of political debate. We have been concerned about caring for the circumstances which would arise in case of abuse, although it must be recognized that the fundamental responsibility for good operation in this area will depend upon the integrity and attitude of the responsible elected person and the way in which our elective process holds them responsible for their action. That is recognized, throughout, in the bill before us.

Why are these provisions needed? The right hon. gentleman from Prince Albert asked that question. He asked it on second reading. In the committee, a number of examples were cited of the situations we can envisage in which permits of this kind might be needed. I referred to an actual case which was brought to our attention by the police. A known counterfeiter had boarded an aircraft travelling between two eastern cities 50 minutes apart. The police had 50 minutes in order to prepare for his arrival in such a way that they might obtain evidence of what they suspected to be conspiracy in connection with that counterfeiting. They had 50 minutes, because the aircraft was due to arrive at the other city at two o'clock in the morning. It would be difficult even to get the necessary detection equipment in place in time.

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I can refer to another situation which was not indicated to the committee but reported to us by the police. A known drug trafficker was on board an aircraft. At its arrival at destination a police dog verified the presence of marijuana in the luggage of the trafficker. To obtain evidence of conspiracy rather than simply possession, it was necessary to follow the suspect to a meeting place. The installation of a device in the luggage was necessary for monitoring the conspiratorial conversation. The air line crew was able to hold the luggage only for a few brief moments, in which time the installation was completed.

That indicates the kind of situation contemplated. A person designated for this emergency purpose by an attorney general might be in a position where a warrant or an application to a judge at two o'clock in the morning could