I could not endorse more that kind of approach. When I look at this bill and compare it with what that minister had to say on that occasion, I find very little resemblance to what is being attempted now and to the general philosophy that was stated, quite properly and so well, by the minister of justice in 1969.

The minister has made quite a case on the particular clause being considered by way of amendment, amendment and amendment; but I think that case is a weak one. I am not familiar with the minister's background and the extent to which he has actually practised law. He has disappointed me on previous occasions in this House in his capacity as Minister of Justice coming, as he does, from a law school which I know has turned out many noted barristers in the country. I well recall, for instance, his defence of payments illegally being withheld under wheat legislation and his attempt to build a case to support that illegality. He has sounded in this debate exactly the same as he sounded then.

Mr. Fairweather: Even Eugene Forsey left the Liberals on that one.

Mr. Nielsen: The minister has a very weak case and he is trying desperately to shore it up, but as a former professor of law he should know he cannot succeed. He wanted, in the bill in its original form, the illegality that evidence be accepted in court if it met only two tests—one as to relevancy and one as to justice being done. I cannot bring myself to vote for a law which will come out of this place that will make legal that which is illegal. Let me put it in the converse: I cannot vote for something that sanctions illegality, and that is essentially the position being taken on this side of the House.

Mr. Fairweather: It not only sanctions it, it puts a premium on it.

Mr. Nielsen: As the hon. member for Fundy-Royal (Mr. Fairweather) suggests, this involves not only the question of sanctioning an illegality but it puts a premium on that illegality, which is even worse. The minister feels that the police forces of the country will somehow be restricted or circumscribed in their investigatory process if we do not go along with sanctioning illegality. I cannot accept that. From my experience, the police would have no difficulty in operating under a law which required an order of a judge to permit this kind of electronic intrusion into the privacy of individuals. I cannot think of a single instance in which the police would be inconvenienced by being required to obtain an order of a judge in order to take advantage of the provisions permitting electronic activity by the police.

What is far more important, Sir, is the fact that there will be judicial control exercised in this whole area. The section as it was originally in the bill, and as it would have been restored—and then some—by the minister's motion to amend, would do away with the requirements of obtaining judicial sanction for this kind of activity. If that occurred it would be a foot in the door toward a police state, as far as I am concerned. I do not want any of my remarks taken in any way as suggesting there has been overzealous activity on the part of police forces in this country, or that I am somehow red-necked or bigoted about the functions of our police forces. That does not go with my background. My background has been very closely associated with police activity, starting with my father. However, I do say it is simply bad, in terms of philosophy, to permit uncontrolled police activity, and the best form of control we can exercise in instances such as this is control by the judiciary. After all, that is why the judiciary exists.

A great case has been attempted by the minister to the effect that sometimes there are urgent situations when a judge cannot be found in order to get the necessary order. I do not buy that. Contrary to some figures which have been stated in the House—and I believe the right hon. member for Prince Albert (Mr. Diefenbaker) suggested there were 600 judges in the country—allow me to suggest that there are 600 judges in the provinces of Ontario and Quebec alone. For the whole of the country a more accurate figure might be closer to 900 judges who would be authorized under this legislation to grant the kind of order required.

Nor do I go along with those who advocate that all they should have to do is go to a judge, say they want an order and get it. In my view, in all instances where applications are made for wiretapping they should be supported by sworn assertions or applications complying with the requirements set forth in the legislation. That imposes no limitation and no restriction on police activities. In matters in which I have been associated with Crown prosecutions, search warrants have been obtained in the dead of night and in the early hours of the morning—but always supported by the sworn statement of the applicant that there was reasonable or probable ground to believe the crime would be committed, had been committed, and so on. That does not inconvenience the police force or the court one iota.

• (1630)

In my practice, which might be a little unusual having regard to the nature of the country I represent in this parliament, I have made a chambers' application before a judge who was out fishing 200 miles from nowhere. I have obtained injunctions over the telephone on applications properly supported by sworn affidavits. If these things are possible, and they are possible, there is no reason for opening the door as widely as the minister would wish, thereby creating the possibility of abuse. I say that every possibility of abuse exists, and therein lies the danger.

In my submission, we should make it reasonably easy for police officers and police forces in the country to obtain the kind of permission this bill would seek to give them; but at the same time we want some kind of control exercised over the granting of that facility. There has been a great deal of time devoted in this debate to the question of the admission of direct and indirect evidence in trials where that evidence has been obtained by a wiretap which has been installed without a judge's order. That, Sir, I cannot accept at all. I know there is the argument that this kind of evidence comes under the simple relevancy rule now, so that if a police officer or officers exercise powers without a search warrant, or under a search warrant that is deficient, notwithstanding that they have obtained evidence illegally that evidence is admissible at a trial at the present time. But we should not be extending that kind of principle. I disagree with the minister when he says that