porated in the bill, which enjoyed support from members of all parties present at the committee proceedings, an amendment about which a number of members from all parties spoke eloquently and, I might say, with much more logic than the minister tonight.

All hon. members should be clear about one thing: if the police obey the law, if they follow the carefully defined procedures in this bill, there will be no problem. The evidence from the wiretap, both direct and indirect, is clearly admissible in any prosecution brought against any person involved in the case on which the Crown is proceeding. Indeed, I would suggest that rather than seeking to take rights away from the police, the bill may be granting them new rights because it can be implied that for the first time the tape itself, provided it is legally obtained, can be admitted directly and played to the court for the judge, and in some cases the jury, to hear. Instead of slowing down the process of justice, this might well expedite it and achieve the goal which all hon. members, including the minister, seek to achieve. I suggest the Minister of Justice is erecting a false and fallacious cloud—

An hon. Member: Why not a red herring?

Mr. Atkey: —when he raises the spectre of lengthy cross-examination of police and prosecution witnesses in an attempt to establish the connection of evidence with alleged wiretapping. What the minister forgot to tell the House is that the only connection in which a defence counsel would be interested is a connection with illegally obtained evidence. For some reason, the Minister of Justice forgot to use the word "illegal", and to my mind this is the word we are concerned about. It is illegally obtained evidence with which this entire debate on motion No. 13 is concerned. I suggest the minister might attempt to keep his logic on a shorter leash.

Mr. Lang: Yours is short enough.

Mr. Atkey: That is an injunction given by a gentleman of whom I am sure the minister is aware—Lon Fuller, the eminent professor of jurisprudence and philosophy at Harvard law school. The minister has suggested that the only sanction we need in order to contain illegal wiretapping, whether by police or private investigators, is the threat of prosecution and a fine or a maximum penalty of five years.

I do not belittle the usefulness of those provisions, but looking at the matter practically I doubt that they will be that useful. I say this, having talked to many people involved in law enforcement, including police officers. For if the police are to be engaged in illegal wiretapping—some have been in the past, and some may be in the future—who is going to catch them? If they have a system worked out within their respective forces, who is going to be there to discover their equipment and lay a charge? If they are caught, it will be by happenstance; and what I fear is that some of the police in this country, unless the bill remains in its present form, will ignore the carefully defined procedures for seeking an authorization. After all, is the risk worth it? If they can use the indirect evidence, albeit from an illegal tap, isn't that really the object of their exercise, particularly if the sanction of a penalty does not really deter as a practical measure?

If hon. members had listened to the evidence placed before the justice committee, and if they had read the evidence given before a committee of the previous parliament, they would be aware how little used those particular provisions will be. A number of arguments were produced before the standing committee to show why illegally obtained evidence, direct and indirect, should be excluded from any court proceedings. I thought one of the most eloquent expositions of that viewpoint was put forward by a Liberal government supporter, the hon. member for Windsor-Walkerville (Mr. MacGuigan) who in my judgment presented the committee with the sort of argument that makes good common sense. He said:

> I would support the substance of what Mr. Atkey is trying to achieve and, subject to further consideration of his wording, I think probably the wording as well.
>
> In looking at the administration of justice we are not concerned only with what happens in a court, where the attempt to decide whether a particular person is guilty or not guilty of an offence with which he is charged is the prime consideration.

Mark these words. The hon. member went on to say:

> But the administration of justice is a broader thing than that. It involves courts but it also involves administration of the law in the narrower sense, that is, what happens with the police forces, what happens with the whole executive arm of governments on the side. Here it seems to me that we have a very important goal of honesty and good faith in the dealings of those who are administering the law.
>
> We are, I suppose, confronted with a fundamental question here. Which kind of failing do we think is worse? Do we think it is worse to let go a criminal who is guilty, or do we think it worse not to take sufficient sanctions against bad faith in the administration of justice? In this fundamental choice I am on the side of those who believe that the worst error a legal system can commit is to allow bad faith in the administration of justice. The one thing above all that the public must feel they can rely on is the good faith of those who administer the law.

Those are wise words. I only regret the hon. member has not been more successful in convincing some of his colleagues, particularly the Minister of Justice (Mr. Lang) of the wisdom of the position he has stated and which I assume he will take in this House. Lest we concern ourselves too much with the more accidental cases of illegal wiretapping, let me refer to some comments made by the Royal Canadian Mounted Police which came to the Standing Committee on Justice and Legal Affairs through the memorandum submitted by the Solicitor General (Mr. Allmand) on June 18, 1973.

● (2100)

The Solicitor General, being very honest and forthright as to the nature of the operations of the RCMP, reviewed the criminal operations and the particular electronic surveillance installations which were in place over the past two years. He pointed out that had the provisions of the present bill before the House been in place in the year 1971-72, almost 30 per cent of the wiretap installations put in place by the government would have been illegal, would have been beyond the scope of this bill. In the subsequent year, of the 663 installations completed, 162 would not have come within the terms of the bill—close to 25 per cent of the government's installations. If that sort of