

Protection of Privacy

what we believe to be a democratic process, a rule of law. That is what is necessary. Sometimes this government forgets they should be operating under the rule of law. No democratic system can work without it. If they start to ignore that principle, which they do, and decry the position taken by the hon. member for Fundy-Royal, they forget about the rule of law. That is the fastest way to destroy this democratic institution of which we all should be proud.

If the position taken by the hon. member to whom I previously referred is ignored, we start to chip away at the principles which we here spend hours to protect. Thousands and thousands of lives have been lost to obtain these rights. You do not deal with this matter lightly. You do not say that is idealism or ivory tower stuff. You do not do it that loosely or that easily. Surely we have learned something; hopefully we have. We begin to wonder, when amendments to this legislation are placed before us by the Minister of Justice. They do not do anything to enhance the rule of law, the democratic process or the stature of the Parliament of Canada. All they do is create a situation in which we have derision in the country. If you cannot protect the little people, you are entitled to suspect there will be derision for this parliament. We should all be proud of what we are here to do. The minister has to take a backward step, reconsider the matter and accept the position of the hon. member for Fundy-Royal. Perhaps this is what is required. It will take a big man to withdraw.

Before entering this chamber I held the minister in high esteem. However, after seeing what has happened to this legislation in the hands of this minister, perhaps I should take a second look at the esteem in which I hold this minister. I feel rather badly. I suggest the minister can be a big man. He can prove that to this House. If the words of the last two speakers have any meaning to the minister, I suggest he must withdraw. I hope he will do so, not only out of respect for parliament but for the people of this country for whom he is the Minister of Justice. If justice is to be done, this is the position he should take.

The Acting Speaker (Mr. Laniel): Is the House ready for the question?

Some hon. Members: Question.

The Acting Speaker (Mr. Laniel): The question is on motion No. 20. All those in favour of the motion will please say yea.

Some hon. Members: Yea.

The Acting Speaker (Mr. Laniel): All those opposed will please say nay.

Some hon. Members: Nay.

The Acting Speaker (Mr. Laniel): In my opinion the yeas have it.

And more than five members having risen:

The Acting Speaker (Mr. Laniel): Pursuant to the order made earlier this day, the recorded division on this motion stands deferred until Tuesday next.

● (2040)

The House will now proceed to motion No. 22 standing in the name of the hon. member for New Westminster (Mr. Leggatt).

Mr. Stuart Leggatt (New Westminster) moved:

No. 22.

That Bill C-176, an act to amend the Criminal Code, the Crown Liability Act and the Official Secrets Act, be amended in clause 6 by adding immediately after line 10 at page 25 the following:

"(6) No warrant shall be issued by the Solicitor General of Canada under this section unless an authorization to intercept is obtained in the manner provided under Part IV.1 of the Criminal Code."

He said: Mr. Speaker, this amendment will, I hope, commend itself to the House. It relates to the provision having to do with the Official Secrets Act. In the case of Criminal Code offences, provision was made in the bill for referral to the judiciary before authorization for wiretapping is given, except in the emergency clause. I am pleased that the minister has seen the light and presented the House with an amendment to ensure that even in the circumstances of this clause reference to a judge is necessary before wiretapping is authorized.

The amendment I am now proposing would require that all wiretapping, not merely wiretapping created as an offence under the Criminal Code, should require judicial approval. I believe the arguments in favour of such an amendment are very persuasive. I have practised law for some 16 years. All of us who have appeared before the courts have lost and won, but I have never felt I was unfairly dealt with in terms of the consideration shown me. I think all of us have the greatest respect for the courts and for the judiciary.

Why is it, then, that we lose confidence in our judges all of a sudden and say that when questions of security and the Official Secrets Act are concerned, this is too sensitive an area for them to be involved in? We all have friends and acquaintances in the judiciary, and in all my years in practice I have never met a member of the bench to whom I would not entrust the kind of confidential information which would need to be disclosed before an authorization would be issued.

As we have proceeded in our consideration of this bill, each time the judiciary has been eliminated from the process it has been brought back again. The judiciary is a great bulwark of civil liberties in this country and I see no necessity of bypassing the judges in matters connected with the Official Secrets Act. Under the notification provision we have arranged for special reference to the judiciary. Under the emergency provision the same applies; and, of course, there has always been provision for reference to the judiciary in the main authorization clause. I hope the House will now take this final step and make the necessary improvement to the bill so that the rule of law may prevail throughout. Surely if we want the rule of law to prevail we rely on the judiciary to enforce the law.

We in this party have been critical of the bill before us. If there are to be abuses, then mark my words those abuses will arise through invocation of the Official Secrets Act because its terms are indefinite—the definition of "subversion" is fluid. A tremendous amount of discretion