

Judges, like any professional group in society, are able to organize their affairs under some sort of roster system, so that a duty judge would be available at odd hours to perform the sort of task which this legislation contemplates. In the normal course, authorization could be granted at odd hours. In our system in Canada there is at least one county or district court judge within easy travelling or communication distance from virtually any part of Canada, and it would not be hard to obtain the sort of legal authorization for wiretapping which this bill contemplates.

Some concern has also been expressed about the emergency 36-hour permit section. Members of the opposition in this House have spoken about it, as well as persons who have had a great deal of experience with the law, with wiretapping and with law enforcement as carried out by the police. In this connection it is interesting to note that on June 8, 1972, the bar association of the province of Quebec expressed concern about this particular section. Indeed, so strongly felt was that concern that the bâtonnier of Quebec bar, Mr. Jean Moisan, sent an emergency telegram to the chairman of the Standing Committee on Justice and Legal Affairs. I want to read part of that telegram, which expresses his views and those of members of the Quebec bar whom he represented. The communication is in telegraph form. I will read the English version, in part, as follows:

—request the removal of clause 178.15. Recommend prior authorization by a judge in all cases.

That, I believe, was an official communication from the Quebec bar association and should be treated with a great deal of seriousness, particularly in view of what has happened in the province in the last year. The concern expressed by the Quebec bar association reflects on the sort of invidious activities which are being carried on by private investigators and police in that province through the use of wiretaps and other means of electronic surveillance. The expression of such concern is not uncoincidental with such activities.

One of the difficulties we shall encounter with the emergency permit section was alluded to this morning by the right hon. gentleman. It will be difficult to determine who is an "agent." The bill provides that an agent is a person so designated by the Attorney General of a province or the Solicitor General of Canada. There is no limitation as to number, as to quality, as to competence or as to location. In other words, the section is wide open. Every police officer, every chief of police, every customs officer, every excise tax officer and every combines investigator could possibly be named as an agent for the purpose of granting an emergency permit under this bill.

You might say that no responsible Attorney General, no responsible Solicitor General, would ever give such wide scope to what is contemplated by the term "agent" in this bill. The only protection provided in this bill was provided by the committee. The opposition moved an amendment under which agents who are named by the Attorney General or the Solicitor General have to be identified and named in the annual reports of the Attorneys General or the Solicitor General. Although this gives us some protection, because at some point we will know who these people are who will be capable of granting an emergency permit

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or seeking authorization from a judge, it will be after the event, Mr. Speaker, perhaps after the horse has gone and the barn door has been closed—and that may be too late.

It will be of interest to quote from a brief submitted by the Montreal Urban Community Police Department. This brief, which did not find its way onto the record, was nevertheless distributed to members of the committee. It sets out the sort of procedures followed now for the control and conservation of information gathered by electronic surveillance. It speaks of the present practices of the Montreal police and of practices as the Montreal police would like to see them in the future. In part, the brief says:

Any request for a project must be accepted by the assistant chief inspector of each division involved before being submitted to one of the two inspectors who control the use of wiretaps and the routing of the information intercepted. These two inspectors report directly to the Director of the Montreal Urban Community Police.

In addition to them, two captains and a detective-lieutenant have access to this information, along with the carefully selected operators.

● (1540)

There is a system in existence in Montreal. It is not as wide open as I suggest could possibly exist under the terms of this bill. However, it is certainly much more wide open than I would like to see in terms of an Attorney General in his province carefully naming highly qualified, honest, carefully selected agents who would have rather large powers under this bill.

The solution to the dilemma of the term "agent" is to cut down the powers which they can exercise. As the right hon. member for Prince Albert pointed out, the most dangerous power they could exercise would be to grant an emergency permit. An emergency permit could conceivably go beyond the 36 hours if accompanied by an application for authorization to a judge which was adjourned *sine die* or in perpetuity, whatever the case may be.

The Minister of Justice attempted to point out there is some inconsistency in the position taken by a number of members in the justice committee and on second reading in this House. In particular he referred to a number of us, and I include myself, who spoke rather strongly about whether there should be judicial authorization as the primary controlling mechanism for legalized wiretapping under this bill. I admit I was one who suggested the ultimate responsibility for wiretapping should be with the politically elected person, that is, the Solicitor General or the Attorney General. However, I made it very clear that that was the Solicitor General personally or the Attorney General personally, and certainly not his agents as this bill would permit under the emergency clause.

I listened to the arguments on second reading and in committee. I was able to accept the position of the majority of the members of the committee that perhaps judicial authorization, on balance, was the best form of safeguard that we have. Having accepted that, I do not think you can have it both ways. Once having accepted judicial authorization as the ultimate controlling device, you have to go with it 100 per cent. You cannot say we will have a judge in some instances and in other instances we will have the attorney general as the controlling mechanism. It has to be