

the police may avoid other investigative procedures and, therefore, we are not necessarily improving the quality of police performance.

Knowing the minister's vast experience as a law professor and a person very knowledgeable in these matters, I took his advice and had another look at the bill. I wanted to find those things that were going to protect us from general surveillance or abuses of the use of wiretapping. I looked at clause 178.13(1). That provides that a judge must be satisfied that, and I quote:

other investigative procedures have been tried and have failed;

It does not say all other investigative procedures. It is entirely feasible that if someone walks up to a front door, knocks and asks if Joe Blow is in, then is told no, he can say that other procedures have failed and request a wiretap. There is enough room in most of the provisions of this bill which attempt to protect us for the police to easily avoid them. I am not saying they would do that deliberately. However, I do say that in an emergency situation the police, for honest reasons, will attempt to use the provisions of this bill. In the process of so doing, they will of necessity violate privacy in an unnecessary way.

I have made the point before that the restriction in this bill is minimal. The report from the Solicitor General (Mr. Allmand) was that of the 663 wiretaps by the RCMP in 1972-73, only 129 came within the provisions of the bill. This would result in a reduction of only about 24 per cent.

I went through the bill a little further. I thought there may be some protection in the person and place provision. This is under the clause "application for authorization". The police have to set down certain provisions before they can get permission to use it. One is to state the identity of the person. This is in clause 178.12(c). If they do not know the identity of the person, they must identify the place they are going to tap. If you do not know where the place is, you cannot state where you are going to tap. The last part of that provision gives the police the right to general surveillance.

In the city of Vancouver, there is obviously a thriving heroine trade. If the police do not know who is involved or where it is happening, they can say they suspect a particular apartment block and make an application for wiretapping the whole block. I realize the decision is in the hands of the judge, but the possibility is there.

At the minister's suggestion, I looked further at the bill in order to see how broad the protection is and how it protects civil liberties. I looked at the emergency clause which many of us would like to see removed. According to that clause, and I hope the minister will correct me if I am wrong, where an emergency situation arises and it is inconvenient or impractical to get a judge, the agent who is authorized to do this can authorize the tap without court approval. The police officer can come back before the 36 hours are up, and thereupon the attorney general may do a number of things. He may direct an application for an authorization to intercept. In other words, he can approve something that has already happened or he can approve the permit or revoke the permit. This is what I want to emphasize.

The clause provides that the Solicitor General or attorney general can revoke the permit that is given for emer-

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gency purposes. Let us assume that a tap that has not received court approval has been going on for 20 hours. The attorney general can at that time revoke the permit. However, any evidence that is obtained from the wiretap is legal and admissible. If I am wrong, I will be happy to be corrected. That seems to be the plain meaning of the clause which I re-read at the suggestion of the minister. I say the emergency permit clause has enough holes in it now.

I support entirely the position taken by the right hon. member that it is a completely unnecessary provision. In his address, he pointed out that there are approximately 600 judges available. In terms of getting that kind of approval, it would be practical to have a judge authorized to receive a telephone call in an emergency situation to approve the tap by telephone. The authorization does not have to be in writing. It could be done by telephone and subsequently confirmed in writing.

From a practical point of view, there is no reason why we need the emergency clause. I do not think it is beyond the mind of man to permit a judge to approve an emergency wiretap. However, in his remarkably inflexible way, the minister continues to insist on this provision. He pointed out that the committee, although very narrowly, decided to leave in this provision. I hope the House will have another look at these emergency provisions because they are unnecessary to the working of the bill. They can certainly lead to the kind of severe abuse all of us worry about in the operation of this immoral device.

I very much appreciated the remarks of the hon. member for Matane (Mr. De Bané) who indicated he intends to support the amendment. I am glad to see there are some small "1" liberals left in the House. It is interesting to note that back in the 14th century the English had a law which prevented this. This is not a new problem. The only difference is that we now have the electronic equipment to make it such a pervasive and overwhelming one. I should like to read into the record a paragraph from Blackstone's Commentaries:

● (1430)

Eavesdroppers or such as listen under walls or windows to harken after discourse and thereupon to form slanderous and mischievous tales are a common nuisance and presentable at the court or are indictable at the sentence and punishable by fine and finding sureties for their good behaviour.

They were really ahead of us. I might say that British Columbia has a privacy act which deals only with the civil area. I welcome the provisions of this bill dealing with civil privacy. I think they are vital and necessary. But I do urge the minister not to be inflexible with regard to the amendments the committee brought forward. The committee system must work in a minority parliament. The minister cannot continue to conduct his office as if he were immune to the criticisms and suggestions of the opposition. Many of them are practical. Many will improve the bill. The attempt to bring back the amendments the minister lost certainly hints of arrogance.

These amendments are connected. As these things are examined—and here I mention the "person and place" amendment—we reach the position all of us are trying to avoid, that is, the use of this device by the police for the purpose of general surveillance rather than to obtain evi-