

Protection of Privacy

hon. member can in this way ignore the important provisions that are contained in this bill to protect our citizens and their liberty and to ensure that proper criminal investigation can take place on our behalf by the police. We should not forget that is what law enforcement is all about: it is activity by the police on our behalf in an attempt to discover and root out organized crime and other serious criminal activity.

Earlier in the day we noted the important moves this bill makes in creating new offences in order to protect privacy, making it unlawful without proper permission to use electronic intrusion to invade the privacy of anyone. Even more important is the general outline of the possession and sale of electronic surveillance devices. The hon. member for New Westminster neglected to observe the careful safeguards and provisions contained in the bill to ensure that electronic surveillance, even in the hands of law enforcement officers, is a rare and last resort device.

I was somewhat amused to hear the hon. member express his concern that the police might be bogged down by the use or availability of this electronic equipment. He indicated he was concerned they might use these devices instead of other things and other methods which in his view are much more effective in police work. I found it rather amusing to hear him show his concern in this way, concern that our police do not know their business as well as the hon. member seems to know it.

The hon. member also ignored the fact that the bill provides the narrow cases in which these devices should be used. It provides that an application to use these devices must be made in a way which holds an attorney general, an elected officer provincially, or the solicitor general, an elected federal officer, responsible for deciding upon any application. It involves an application to a judge. It involves putting before the judge the facts in relation to which an electronic intrusion or wiretapping is needed. It must be shown to the judge that other investigative procedures have been tried and have failed, that other investigative procedures are not likely to succeed, and that the urgency of the matter is such as to make it impracticable to carry out the investigation using other investigative procedures.

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This is an indication that other investigative measures are to be used in preference to electronic surveillance even though from an expert police point of view electronic surveillance might be the equal of the other methods. It is only when other approaches are not adequate or would fail that electronic surveillance can be resorted to. Then again, the hon. member seems to overlook the safeguard which is provided by requiring the most comprehensive set of records to be kept by attorneys general concerning the use of this equipment—the number of times permission is granted, the circumstances and the consequences.

I find it strange that the hon. member should lack the respect he usually seems to show for political processes, when considering this extremely important form of protection against undue use of electronic equipment for surveillance. But then, he would have none of it at all even in circumstances where it has been approved by a judge to whom it has been demonstrated that other methods would

[Mr. Lang.]

not succeed. He would prevent the police from using this equipment. He would prevent them from using it in a case, for example, where an extortion gang had kidnapped a person or persons and was making demands, and where it might be possible, as a result of information known to the police, to find out the location of the persons in question but only through the use of devices of the modern age.

Mr. Nielsen: They would do it anyway.

Mr. Lang: He would bar them from using it, or have them use it in an unlawful fashion, if I take the words of the hon. member for Yukon (Mr. Nielsen) as I heard them. But most strange to me, perhaps, was the way he could say, quoting Ramsey Clark, that electronic supervision or surveillance was not really very effective. The experience of Mr. Clark and of the hon. member may be alike, but none of it was in police work. The whole point of our making it a very serious offence to use wiretapping or electronic eavesdropping equipment, the whole point of our making it a serious offence for ordinary citizens to possess such equipment is that so many citizens are finding it intriguing and useful to invade the privacy of others.

I do not understand how it could be said at the same time that it would not be useful or that it would simply impose a burden upon the law enforcement officers. To me, that is strange logic. We wish to remove this equipment from the hands of ordinary citizens, and by making its possession a serious offence we have a real chance of doing so. By taking this approach, by making possession of an offence it is much more likely we shall be able to deter citizens generally from using this equipment; a penalty attached merely to use would probably not be nearly as effective.

But who is it we shall not deter from using this equipment? It is those elements in our society which it is most difficult for our law enforcement officers to combat—the most organized and effective elements of the criminal underworld, those who are engaged in the most serious of crimes. Such elements as these would not be deterred from using surveillance equipment when it suited their needs. It would be small comfort for us to have outlawed these devices and then to find that the organized element in crime continued to use them while the police were prevented from doing so, even though they would otherwise be much better able to rout out that particular offence as well as other serious criminal offences committed by such groups. Even so, under the present bill it must be demonstrated before a judge that other investigative methods are inadequate or have failed. Only in these circumstances is it permissible to turn to these additional devices.

Many of us in this House are aware of the need to safeguard our liberties in every way, of the need to encourage the highest of standards in our law enforcement officers. We do not accomplish this by making all law easy for them to carry out. I can think of the changes in the bail law, for example. An accused person is considered innocent until proven guilty. We felt it desirable to make it possible for such a person to be at large more readily and not to be imprisoned simply because he might be poor and unable to find cash or a bondsman to get him out of custody. We took action along these lines even though we