

*Protection of Privacy*

about it. However, as I read the bill, together with the amendment which the Minister of Justice will offer at a later stage of this debate which seeks to drag back some of the benefits which were obtained in the course of the committee hearings, it will be possible for police officers, public officers, peace officers and private individuals to engage in electronic surveillance. Granted, it will be illegal, but they will engage in this kind of activity. If the Minister of Justice has his way, the evidence obtained, even though improperly elicited, can be offered in a trial to take place at a later date, not necessarily a trial related to the issue in respect of which the electronic surveillance took place. Such a trial could be in respect of one of the acts referred to in the amendment of the hon. member for St. Paul's, namely sabotage, hijacking, causing injury by explosives and so on.

Assuming the amendment of the hon. member for St. Paul's were not passed, if the electronic surveillance took place in respect of one of those offences and disclosed other facts, if then under the minister's proposal those facts could be used in respect of charges laid with regard to any other matter, whether it be an indictable offence, summary offence or civil action. It could be any civil action as long as it involved a federal statute such as the Income Tax Act, the Excise Tax Act or expropriation proceedings. There would be no limit to the use which could be made of facts and evidence elicited directly or indirectly as a result of electronic surveillance, even though illegally obtained, if the Minister of Justice gets what he is seeking to secure in the amendment he will offer at a later stage.

I say, as strongly as I can, that in considering our position on this amendment, we must take into account that we should do all we can to direct the law enforcement authorities, when exercising the powers granted to them, to use care and discretion. One way of doing that would be to limit the number of offences in respect of which an application can be made for authorization under the act. We will be saying to the law enforcement agencies that this parliament is granting power to make it legal for you to do things which were probably illegal before, but in doing so we fear that it may be improperly used. We fear there may be an abuse or wrongful use of the power we are granting to you. As an indication of our concern, we are enacting a code in respect of what actions and alleged offences you may proceed with at this time. I think that would be a very salutary position for this House to take at the present time.

● (1640)

I would hate to see this legislation go out as presently worded without the amendment offered by my hon. friend from St. Paul's. I say to my hon. friends that when they come to consider how to vote on this amendment they should not fail to take into account the breadth of the authority we are granting by this legislation, and we should use the greatest possible discretion. The limitations which my hon. friend has proposed commend themselves to me, and I hope they commend themselves to sufficient members that when the time comes to divide on the motion the bill can be suitably improved. I think that even the Minister of Justice, in time, will say thanks to the hon.

[Mr. Baldwin.]

member for St. Paul's for his efforts to make this a better bill.

**Hon. Otto E. Lang (Minister of Justice):** I am pleased to follow the hon. member for Peace River (Mr. Baldwin). I notice that he ended more kindly than he began. That is the fortunate thing about his status in the House of an elder statesman; he is mellowing and cannot sustain an attack throughout the whole of a 15 minute speech. Now, I await his remarks always with great anticipation and some pleasure.

In putting forward this amendment, the hon. member for St. Paul's (Mr. Atkey) referred to a matter which is of fundamental importance. The bill before us introduces into law a significant improvement in the protection of the liberty and privacy of Canadians. It does so by creating two offences. In the first place, it makes it an offence to intrude upon the privacy of other persons with a variety of devices known as wiretapping or electronic surveillance. The punishment for such an offence is up to five years imprisonment. This should be borne in mind by hon. members when considering the total approach to this legislation, and our efforts both here and in committee to improve the bill and put forward a measure which is a valuable addition to the law. The bill creates a second offence, punishable by up to two years in prison, for the possession or sale of devices suitable for electronic intrusion or wiretapping. This constitutes the fundamental core of the bill, the part of which hon. members as well as the general public should not lose sight.

A great deal of attention has been focussed upon the fact that the bill does provide a possibility for law enforcement officers to carry out their obligations in maintaining law and order by using these devices in the course of their pursuit of criminals. I hope I do not need to urge upon hon. members that this work should also properly be regarded as an important aspect of our liberty and one which has to be safeguarded—that we should be protected by our law enforcement officers from intrusions upon our liberty in other ways than by wiretapping. There was general agreement in the committee that there should be provision for certain exceptions in the case of law enforcement officers. The problem we are dealing with in considering this aspect of the matter is neither the major thrust of the bill nor the principle that there should be some exceptions in order that law enforcement officers may use such equipment in combatting crime.

The question is this: precisely when should that privilege to use electronic equipment by the police be permitted, and in what circumstances? I suggest to hon. members that the important thing in this regard is that the law be as clear as possible. The hon. member for St. Paul's has sought to meet this requirement by listing certain offences. In this respect there should be no argument. There would be clarity. But from previous discussions in the committee and elsewhere in connection with certain other offences, particularly those committed in the course of organized crime, the difficulty of making a satisfactory list has become apparent.

The hon. member for St. Paul's has added certain words to his list, but unfortunately those words do not contain the clearcut definition which is called for here. He uses words such as "a pattern of other offences which are part