

as extremely severe; that is not preventive but punitive justice. The purpose of every piece of legislation, even in criminal matters, is both to improve the condition of individuals and to protect society. I believe that the proposed amendments go too far, at least as regards sections 1 and 2 of the bill, and I would rather see the criminal code remain as it is now.

Mr. A. W. ROEBUCK (Trinity): Mr. Speaker, the difficulty with passing the principle of this bill as it stands is that by implication we are approving the sections as they stand as amended. It is true that formally all we are doing is to approve the amendment, but when we approve the amendment we are approving by implication the code as it stands as amended. We should not pass this bill without some indication from the Minister of Justice (Mr. St. Laurent) that when it arrives in committee it will be amended to common sense. I have defended in court where there was a life sentence in prospect, and I wanted to tell the jury of that fact. There was a time in the courts of Ontario when judges ruled that you could not tell the jury what the limit of the penalty might be.

Mr. HANSON (York-Sunbury): Can you now?

Mr. ROEBUCK: Yes, you can. A number of us brought that about because we refused to submit to an arbitrary ruling of that kind. We held that the jury had a right to know the limit of the penalty that might be imposed by his lordship. We achieved that right in the courts of Ontario, the right to tell the jury that if you convict the accused of this offence the criminal code allows the imposition of a life sentence. Can you imagine twelve good, decent and humane men listening to a charge under one or another of these clauses against some poor individual who may have stolen some inconsequential amount, a man with a wife and family and so on, and facing the possibility of putting the man in gaol for life? The thing is ridiculous. It is so extreme, as the leader of the opposition (Mr. Graydon) has pointed out, as to be pernicious, and it should be changed. I congratulate the hon. member for Essex East (Mr. Martin) upon having brought this matter to our attention.

The penalties provided in the code should be reasonable, penalties suitable to the offence in the circumstances. I practised in the courts of Toronto many years ago and I actually saw the criminal law reformed by the juries of the county of York. We had a judge who was unduly severe, who handed out five and seven year sentences with a generosity that was

appalling. In due season the juries refused to risk what he might do to the poor fellow in the dock. I saw juries bring in verdicts of not guilty when the prisoner was obviously guilty. Extenuating circumstances made incongruous the abuse which the judge was likely to inflict on him.

And so, too, with the code. You are going to have guilty men let off because of fear by juries of extreme, ridiculous and inhuman sentences. I commend the Minister of Justice for this amendment. I have had the experience of having some offender sent to prison for three years for an offence for which he should have been given three months, much to the regret of the magistrate, without the concurrence of the crown official, and certainly to the consternation of the man's friends and relatives and perhaps his wife and children. It is time that we gave magistrates the right to be reasonable. This we have denied them under the code as it now stands. Let us give them the right to be reasonable. Sometimes they may fail because of human limitations, but at least they should have the opportunity. This is good legislation.

I think some good purpose would be served by carrying out the suggestion made by the hon. member for Lake Centre (Mr. Diefenbaker) in having a more general review of the code, particularly of the sentences. The code sentences were adopted many, many years ago, long before we had reached the small degree of enlightenment which we now possess. What enlightenment we now have should be reflected in the criminal code. The Minister of Justice would be doing a public service if he could get a committee of many minds working on this subject in order that he might bring in at the next session a very much more extended series of amendments.

Mr. J. W. NOSEWORTHY (York South): Mr. Speaker, if a layman may be permitted to be so audacious as to take part in this debate between lawyers in a field where I think angels would naturally fear to tread, I should like to support the suggestions made by the leader of the opposition (Mr. Graydon), by the hon. member who has just taken his seat (Mr. Roebuck), and also the suggestion made by the hon. member for Essex East (Mr. Martin). I approve the withdrawal from the code of the minimum sentence formerly imposed. I agree with those who have spoken, that the amendment is in line with modern thought and practice.

I wish to register my opposition to the continued inclusion in the bill of the words "liable to imprisonment for life," which still gives the court the privilege of imposing a life