

Crown Liability

Then, I come to another case to which reference was made in the *Toronto Telegram*.

Mr. Garson: Would the hon. member tell us the name of the case to which he referred just now?

Mr. Diefenbaker: I have not the names here, but I had reference to the two men who were convicted up in northern Ontario of a murder committed five years ago.

An hon. Member: Yesterday's *Globe and Mail*.

Mr. Diefenbaker: I have not the names, but I am referring to that case. It is recorded not only in the press but also in the Osgoode Hall notes of yesterday.

Mr. Garson: Is my hon. friend suggesting that some cognizance should be taken and some provision should be made in this bill because of that case?

Mr. Diefenbaker: Recently there was another case—

Mr. Fournier (Maisonneuve-Rosemont): I would like to know everything connected with that case. Kindly explain it.

Mr. Casselman: Get the newspaper and read it.

Mr. Fournier (Maisonneuve-Rosemont): I cannot get the information in newspapers.

Mr. Diefenbaker: It is reported in the press under the legal notes column, and indicated that the Chief Justice of Ontario had said that there was no evidence upon which any jury conceivably could convict.

Mr. Fournier (Maisonneuve-Rosemont): And who was right, the jury or the appeal court?

Mr. Diefenbaker: Oh well, I am not going to get into a controversy about that.

Mr. Fournier (Maisonneuve-Rosemont): It is fortunate this is not a court of justice—

Mr. Ferguson: I am not as used to courts of justice as you are. We are discussing this in the House of Commons.

Mr. Fournier (Maisonneuve-Rosemont): The hon. member is talking about a case. I want to know something about it.

The Acting Speaker (Mr. Robinson): Order.

Mr. Ferguson: He knows more about courts of justice than you do, I can tell you that.

Mr. Diefenbaker: Then, some weeks ago there was a case which received general notice throughout the country, and to which particular reference was made by Mr. Richard Henry in the *Toronto Telegram*. This was the case of a man by the name of Ronald

Power, who was convicted and sentenced to a considerable term in jail and who, at the end of nine months, was discharged, it being found out that there was a case of mistaken identity, and that the man was innocent.

Then, several years ago there was a case in Brandon, Manitoba—

Mr. Garson: Mr. Speaker, this is all very interesting, and I do not wish to cut my hon. friend short, but I think that he will agree, will he not, that these subjects which he is now exploring have no relevancy whatever to the present bill—

Mr. Diefenbaker: Oh yes, I will make them relevant.

Mr. Garson: —for this reason—

An hon. Member: For your reason.

Mr. Garson: —that any claim that there may be in respect of improper conviction or improper imprisonment of these gentlemen to whom he is referring is not a claim against the federal crown but a claim against the provincial crown, and therefore has nothing at all to do with this house.

Mr. Fournier (Maisonneuve-Rosemont): That is it.

Mr. Diefenbaker: That is the excuse that is being used to deny these people compensation.

Mr. Garson: No.

Mr. Diefenbaker: I am not saying that under the law there is responsibility, but I do say that there is no right of action anywhere for such individuals; and when we are endeavouring to bring about changes in the law to give to individuals rights against the crown, would it be too much to suggest, as I suggested to the minister, that we do what is done in Great Britain, pay compensation under these circumstances.

Mr. Garson: May I ask my hon. friend this question? Does he think that it is within the constitutional power of the federal parliament to impose upon the provincial crown the obligation of paying compensation in cases of that kind?

Mr. Diefenbaker: That question answers itself. Nobody suggests that.

Mr. Lesage: What do you suggest?

Mr. Diefenbaker: If my hon. friend would wait—he is all right on defence. He thinks so himself.

An hon. Member: Is he?

Mr. Diefenbaker: We suggest that in the interests of justice provision should be made so that persons who have been wrongly convicted—