

Criminal Code

former senior partner, Chief Justice McRuer, have expressed a view which I think happens to be wrong and not in accordance with the times. They have taken an over-technical approach, as lawyers sometimes do.

I do not know why we cannot in this house, rather than somewhere else, deal with hate literature. I think there are many other spheres in which there is an urgent need for change. If this is an omnibus bill, we need not one omnibus but a whole fleet of omnibuses in order to remove the inadequate laws we have in the field of criminal law and bring in up to date provisions.

At this stage I should like to refer to a point I mentioned before when I said I would like to adopt as the theme of my remarks the need for a thoroughly radical revision of the system of criminal justice. Let me quote Dr. Menninger, an eminent psychiatrist:

It is a well known fact that relatively few offenders are caught and most of those arrested are released. Society makes a fetish of wreaking punishment as it is called on occasional captured and convicted individuals. This is supposed to control crime by deterrence. The more valid and obvious conclusion—that getting caught is thus made the unthinkable thing—is overlooked by all but the offenders. We shut our eyes to the fact that the scapegoats must go through the mill to keep the legend of punishment alive and to keep our jails and prisons, however expensive, crowded and wretched.

• (4:30 p.m.)

I could cite passage after passage from Dr. Menninger's book. He is a person who knows what he is talking about, who has studied the facts, not the facts of some ideal system of justice, not the facts of what ought to be, but the facts of what is. Such people say we are not dealing adequately with the problem of violence. The hon. member for Egmont said that we on this continent face a very serious problem in connection with violence. We shall not solve that problem by doing more of the same, by increasing the number of police officers and jails and imposing punishments of the type that have been imposed. We will have to go a great deal deeper than this if we are to solve the problem.

In the solution of the problem we shall have to use methods of scientific research which have been adopted in other fields and found to work. We shall have to say to the lawyers and to society in general: Your system has not worked. The cold war that exists between lawyers and the social workers, psychiatrists, medical men, penologists and others expert in this field must be ended; the situation must be changed.

[Mr. Brewin.]

I tell the house quite frankly that when I studied law I was taught nothing about what happens to people after they have served a term of imprisonment. I was taught what the sections of the Criminal Code contained but nothing at all about what happens to these people because of our system. Magistrates, judges and those concerned with administering our system of justice are not as such concerned with what happens afterwards to those whom they condemn even if they are personally sympathetic. They do not have to make decisions in this respect. They have to decide whether the penalty will be imprisonment for two years, three years or six months. Whether as a result of the penalty any cure will be provided, or whether it will create more criminals and promote recidivism is not part of their concern, expertise or knowledge. We have to consider this problem and ask the lawyers, who are a group with honourable principles and many great traditions, to get together with the social scientists, the medical men and psychiatrists and study and evaluate what are the consequences of our present system and how it can be improved.

I support this bill by and large, with the exceptions I have mentioned. It is a step forward. But I want to emphasize that unless it is treated by the government, this parliament and the public as merely a first step, a move toward a radical and thorough revision of our whole system, it will be inadequate and almost a waste of time. These are subjects that deal with deeply rooted feelings, prejudices and traditions. I think we must recognize that the time has come for change, for bold revision.

I hope that the law reform committee which will be set up will be a committee that will not tinker around, as lawyers have so often done, with the wording of the Criminal Code and things of that sort. I hope the committee will seek the best possible advice from people like Dr. Menninger, for example. We know that the field of psychiatry is changing. Those engaged in this field have developed new approaches and therapies which have been far more successful than the old-fashioned psychiatry practised in the past. Until we become up to date in this field we shall race constantly the type of violence, disorder and misery that now exists which has been growing and threatens our society.

[*Translation*]

Mr. Roland Godin (Portneuf): Mr. Speaker, the former Bill C-195 which has become,