

Amendments Respecting Death Sentence

General might direct his attention in this regard to the meaning of the word "employed". Does the word "employed" as used in this subclause mean employment within the ordinary meaning of the word as we understand it, that is, that it constitutes a definite relationship, not necessarily that of master and servant but a relationship implying payment of salary? If the word "employed" means a person not employed as a servant then, of course, the hon. member for Bow River has made a valid point. However, if the meaning of the word "employed" as it is used in this legislation is that which is currently understood, then I think the Solicitor General has his answer there.

Mr. Woolliams: In respect of the interpretation of the word "employed" may I say that when those of us who are lawyers appear before the courts we find that the interpretation of a section in an act is not based on what has been said here in parliament in respect of what is intended. It is the court which interprets what the words mean. When we look at the words in this subclause I think that the least we can say is that the meaning is pretty ambiguous. It says:

—a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation—

If a police officer in a bank calls upon a citizen who happens to be in that bank to help him make an arrest, I question whether it could be interpreted that this person was employed at that time.

Miss LaMarsh: Of course not.

Mr. Woolliams: I agree with the Secretary of State who is a very able lawyer and who has said, "Of course not."

Mr. MacInnis (Cape Breton South): Do I understand that if a person is called upon by a law officer to assist him and refuses to do so he would be subject to a penalty?

Mr. Woolliams: That is exactly what I asked the Solicitor General. I think that the answer would be yes to that question.

Mr. Pennell: Mr. Speaker, may I say that the deputy solicitor general has suddenly been taken ill and has to return to his home. I had anticipated that he would be joining me this afternoon. In dealing with this question I should like to refer to section 110 of the Criminal Code. I agree with the original submission of the hon. gentleman that everyone who omits, without reasonable excuse, to

[Mr. Baldwin.]

assist a public officer or police officer in the execution of his duty in arresting a person or in preserving the peace, after having reasonable notice that he is required to do so, is guilty of an offence. This brings us back again to the answer I gave to the hon. member for York-Humber. It depends upon the circumstances. If a criminal is shooting, then surely no citizen could be charged for not coming to the assistance of the officer if there is danger to his own life. On the other hand, if the officer asked for help to arrest a person and there was no danger to the private citizen, then I believe there would be an obligation on the part of the private citizen to assist the officer. I am not making the categorical answer that in every case he would be charged with an offence.

Mr. Woolliams: It is 25 years since I studied law but it is my understanding—and I believe the Solicitor General will find there are some cases in this regard—that if a policeman calls upon a citizen in a bank to assist him in making an arrest and the citizen refuses, the citizen could be charged with an offence. Whether it is dangerous or not dangerous is not the question. When he says, "Mr. Brown, will you assist me in arresting this robber who is holding a gun at the head of a citizen" and Mr. Brown refuses, then I think Mr. Brown may have committed an offence in having failed to do so.

The reason for this offence is very obvious. The British have gone a lot farther in this regard than have the United States authorities. Why do the same things not happen in Great Britain which we know happen in the United States? There was a recent case in the United States where a woman walking down a street in New York was stabbed and no one came to her assistance. In Canada and Great Britain it is written into the code that a citizen must accept a responsibility to help preserve law and order and the peace of the country. I am sure that is how the law would be interpreted by any court of competent jurisdiction.

Mr. Pennell: It would depend on the circumstances which prevail at the time and whether there is a reasonable excuse. The hon. member mentioned New York state. May I point out to him that the bill before us is almost identical in principle with a bill introduced in the legislature of that state in respect of a change in the penal code.

Mr. Woolliams: I am not saying that this bill is not like the New York state bill but I