

Criminal Code

not protect the rich while constituting an injustice against the poor. Crime is a national problem in terms of our constitution, and that is why we are debating the present measure in the House of Commons today. Law enforcement, as the Minister of Justice reminded us earlier this afternoon on the orders of the day, is a provincial and local responsibility. This parliament has a legal responsibility, but there must, of course, be some liaison between the hon. gentleman's department and others working in the field of justice and law enforcement. Incidentally, I wish the R.C.M.P. was still under the jurisdiction of the Department of Justice so that liaison might be improved. I see the Solicitor General (Mr. McIlraith) looking at me somewhat sharply, in a manner he can use at times—

Mr. Baldwin: A sardonic smile.

Mr. Woolliams: It is for us to bring excellence to every aspect of the administration of criminal justice—to correction, to courts, to law enactment in every jurisdiction in Canada. Laws must be reformed. They must be repealed if enforcement is impossible, if the majority of people find them unjust and no one pretends to obey them and, above all, if no one is willing to enforce them. Surely this is the purpose of amending the Criminal Code. At least, I hope it is.

We hear a great deal of discussion about reform. Let us consider what we might have done today. Despite the length of the bill and the number of clauses, 120 in all, many significant and desirable changes are regrettably not included. One of the most urgent areas of reform is our system of bail in Canada. The Minister of Justice has mentioned this in the past, but I note we are not being asked to deal with any specific proposals here. Why could we not have been given a thorough review of the Criminal Code and cleared the whole thing up in one shot without further delay? I am pleased to think the Minister of Justice agrees with me. In the October, 1968, edition of *Maclean's* magazine, which I hold up for hon. members to see, the hon. gentleman sets out his conception of justice and is reported as saying in part:

—a man has to have equal right to counsel; provisions like bail have to operate equally as between rich and poor—

Recently a report appeared that in one of our great provinces in this nation people have waited months, even years, for trial. This sort of thing does not happen in only one province. Representatives of the party to which I

belong have asked for a royal commission to look into these things but there has been no affirmative approach to this request on the part of the government. Why was bail reform not included in this omnibus bill? Provision should have been made. When we asked him about it the minister said, in effect; It should be there but it is not. What he really means to say is that the Prime Minister would not let him insert it.

The original idea of bail was, of course, to make certain that the accused would appear. But our existing bail system is not ensuring this. There are many problems. Magistrates generally set bail according to the offence charged rather than according to the chances of the accused reappearing for his trial.

● (4:20 p.m.)

I began to practice law 25 years ago, though let me say I did not inherit a law practice or have that kind of affluence bestowed on me. Like many of the lawyers in this House of Commons I had to do a lot of police court work. What happened when I went to the police court to have bail set in a case? The first thing that the magistrate asked Crown counsel was what the accused's record was. The accused might not have been in trouble for five years, but if the police knew the man's record and that he had committed a certain crime five years previously, in some cases they rounded up all such suspects and charged them with vagrancy. Then they stayed in jail. These young, disillusioned men who thought they had rehabilitated themselves, would tell me they had been in jail since Friday and had lost their jobs, that their families thought they had returned to crime.

Mr. Nielsen: It is still happening.

Mr. Woolliams: You bet it is still happening; it occurs every day. Reform in this regard would have made my heart pump with the proper kind of blood.

Then let us consider the great problem raised by marijuana. I remember one case in which Crown counsel was E. J. McCormick, Q.C.—he told me I could use his name—and the accused came from a good family. Counsel told me that the accused was going to appeal and that he wanted the magistrate to reduce bail. The magistrate said he could not, that the matter had to go to the high court. While arguments of this sort go on, the youth becomes further frustrated and stays in jail.