

Criminal Code

measure caused by the lack of specification and precision in the present Criminal Code.

This bill, therefore, attempts to rechannel the law to guarantee the least possible pre-trial interference with individual liberty that is consistent with the proper administration of justice and the interests of the public.

Mr. McCleave: Mr. Speaker, the minister is obviously in a much happier frame of mind presenting this civilized legislation this morning than on an earlier occasion this year. Perhaps I could call it one o'clock, Mr. Speaker.

Mr. Deputy Speaker: Order. It being one o'clock I do now leave the chair. The House will resume sitting at two o'clock.

At one o'clock the House took recess.

AFTER RECESS

The House resumed at 2 p.m.

Mr. Robert McCleave (Halifax-East Hants): Mr. Speaker, I believe there is a general disposition to see whether we cannot get the bill into committee before the end of the afternoon. In the circumstances, my remarks will be somewhat shorter than they would normally be. I point this out because the minister has made a long, reasoned and interesting opening statement and I would not want to appear to be doing a discourtesy to his splendid effort. If it would warm the cockles of his heart, I might say that the right hon. member for Prince Albert (Mr. Diefenbaker) will shortly be entering this debate, and he, with his vast experience of human freedom and liberties, will be providing the frosting on the cake for this particular party.

May I make a few observations about the bill itself? It is an attempt to strike a balance between the rights of persons involved with the law and the protection of the public. As the minister has stated, the law under which we operate at present in this field has been in effect for almost a century, and change is long overdue. The hon. gentleman made reference to the question of the protection of society from those under arrest when they apply for bail, and the considerations which should guide a court when determining whether these people should be allowed on the loose between arrest and trial.

• (2:10 p.m.)

This is a fearfully complicated problem, I suggest, because every once in a while we read stories about horrendous crimes being committed by those who are free on bail. While Canada has a reputation perhaps for being overly zealous about keeping people in prison, one sometimes wishes more people of a certain kind were kept in prison. But how to determine whether a person charged with a crime is likely to commit another crime if freed while awaiting trial would probably defy the wisdom of a Solomon.

One practical remedy has been suggested, one that the bill does not include. I refer to the remedy that appears in the Ouimet report, which is the backbone of the measure we are considering today. The Ouimet report recommended that there should be a central registry in each province so that a court could quickly determine something of the background of a person who is charged with an indictable offence and is asking the court for bail. Either when the minister closes the debate or when the bill is dealt with in the justice and legal affairs committee, I think we should be given an explanation why this rather important element is missing from the bill. I suppose we will be confronted with the explanation that this is really a matter for the provinces. I do not know whether that will be the case, but the Ouimet report did suggest one practical method for dealing with bail applicants who have been charged with serious offences.

Another point which should be made is that we simply do not have sufficient statistics of a comprehensive nature regarding the likelihood or unlikelihood of persons who are released on bail committing further offences. This is a surprising area of deficiency in an age when we seem to revel in statistics and information on all sorts of topics. The finance committee has been considering the Statistics Act and has discovered that the number of categories that statisticians at the federal level have dealt with in an area such as this has almost doubled in recent years. This leads one to think that we have all the information we need, yet that is not the case.

My next point concerns the method of proclamation. In his statement the minister met head on any objection I might have had when he acknowledged that this was a complicated bill—as indeed it is—and that a large measure of education of the police would be required before the legislation could be proclaimed. If the bill has to provide statutory guidelines for the police with regard to arrest and release before trial, then why not follow one of those statutory guidelines that every police officer should follow? I refer to page 35 of the bill, which includes this provision:

(8) The provisions of sections 445C, 445D and 445E apply *mutatis mutandis* in respect of any proceedings under this section, except that subsection (2) of section 445D does not apply in respect of an accused who is charged with an offence mentioned in section 445H.

I suggest that a police officer who is able to contain all that in his mind has a bright future. I might even suggest that that portion of the bill must have been drafted by the gentlemen who put together the Income Tax Act. Of course, with the Income Tax Act you can hire a lawyer at great expense, or a chartered accountant, to ramble through the various confusing labyrinths. However, in this bill we are trying, in about 75 pages, to tell police officers how to carry out their duties. There must be a simpler way, though if I were challenged to think of one perhaps I would be no more successful than those who drafted this measure. In any event, my little quotation underlines the fact that it will take a large amount of education of our police forces before the measure can be properly put into operation.