

*Criminal Code*

whether or not some other method could be used. Alternative suggestions have been made, such as the lethal chamber, the electric chair and so on. I believe that this is an important consideration.

I think further that the committee ought to bear in mind that such punishment for murder might not necessarily be considered as punitive but rather in the nature of a deterrent. Possibly if the method of carrying out the execution were made less barbarous the deterrent factor might not be so strong.

In regard to the matter of whether or not capital punishment ought to be retained, there is a very practical consideration. If the criminal who is convicted of murder is sentenced to life imprisonment, that is the maximum sentence he can receive. There is nothing to deter that criminal who is sentenced to life imprisonment from trying to escape at every opportunity, possibly taking other lives in the process. In other words, such a person is rather analogous to a continual time bomb in the penitentiary, because he can receive no heavier sentence than life imprisonment and there is nothing to deter him from attempting to break out.

I have no doubt many members who will serve on the committee will receive representations from various organizations throughout Canada on the subject of capital punishment, stating whether in their opinion it should or should not remain in our law. Undoubtedly many of these recommendations and suggestions will come from genuinely moral groups holding deep religious convictions, such as the Society of Friends. I have no doubt many hon. members have already seen such representations.

Since section 46 in Bill No. 7, as I read it, would make spying in peacetime a capital offence, representations may very well be made to members of the committee from groups holding somewhat ulterior motives in trying to remove the death sentence. I think this should be borne in mind, because it would certainly facilitate the activities of any spying group. And I hope no one will mistake my meaning and proceed to classify me with a well-known gentleman south of the border. I do feel, however, that this should be borne in mind.

There is one further item I would mention at this time. It seems to me that, in addition to the subjects of capital and corporal punishment, and lotteries, the special committee to be set up might very well take into consideration the additional subject of sex crimes as they are set out in sections 135 to 149 inclusive in Bill No. 7, as well as in sections 659 to 667 in the same bill.

[Mr. Nesbitt.]

I make this suggestion for many reasons. With the exception of sections 659 to 667, which deal with preventive detention, there are no substantial differences on this subject in that bill as compared with the corresponding sections in the present Criminal Code. Having had some experience as a crown attorney for several years, I have found that offences of this nature present difficult problems both to the police and to crown counsel, from the point of view of laying proper charges, and that these offences present even greater difficulties to the magistrates and judges who must deal with the matter from the point of view of sentences to be imposed.

The difficulty in connection with the imposition of sentences arises from the fact that there is a wide diversity of opinion as to just what degree of severity there should be in sentencing in a sex crime. The argument that an accused person has had previously good character and has conducted himself as a good citizen, but that he has suffered some type of mental aberration, is invariably presented in mitigation of these sentences. One may find that one magistrate or judge may inflict a very light sentence upon an accused charged with a crime of this nature, while another magistrate or judge might inflict a more severe penalty. There is this lack of uniformity in sentences throughout the country, a condition which does not encourage respect for law.

It is my feeling that this confusion with regard to the sentences that ought to be imposed on criminals of this kind is due to a confused state of public opinion generally, and that some sort of clarification as to possible minimum as well as maximum penalties should be set out in the proposed new Criminal Code.

From the amount of publicity crimes of this nature have been receiving in the last few years it would appear that such offences may very well be increasing. But even if they are not on the increase, public interest in them most certainly is. While crimes of this nature are all offensive and disagreeable, those involving children are the most offensive of all. I feel that the people of this country are determined that stringent action should be taken against such criminals who attack children, action more stringent than has been taken in the past.

Again, within reason I feel that this matter should be investigated by the special committee to be set up to study the matters which have been mentioned previously. My personal view would be that, like the subject of insanity, this is one that should be dealt with