

involved with peacekeeping and police protection, or judicial and legal affairs, are not considered to be sufficiently informed to grapple with the intricacies of the law as spelled out in the Criminal Code.

Quite frankly, I think that attitude in the past has greatly hampered the understanding, the effective use and the drafting of Criminal law. It is very significant that in recent years more and more people who are not professionally trained in the law, but who are concerned with the functioning of society, generally feel committed to examining the issues as they are put before us and passing judgment on them.

The minister, in his opening remarks last Thursday, referred to the increasing acceptance of the distinction between morality and the law. I think this will be a very important factor in changes which are made in the law in years to come. After all, and I think more people agree with this in a pluralistic society, it is not possible to impose one uniform moral code on a country any more than it would be possible to require all members of a country to adhere to a certain religious group. We believe that in a free society there must be a certain freedom of choice, as well as some responsibility, in relation to the moral framework within which society operates. What is being increasingly attempted by law, particularly in respect of the Criminal Code, is to lay down minimal standards of behaviour, if you like, beyond which we definitely infringe upon the rights and freedoms of our fellow members in society.

Having said that, I realize this will create increasing difficulties for lawmakers and create increasing difficulties in terms of law enforcement. I think we have seen some of these difficulties, because it is one thing to conceptualize an approach to the law in legislative chambers such as this and quite another thing to implement it, particularly during times of very rapid social change. One has to look only very cursorily at the provisions in this bill to realize some attempt is being made at accommodation of the rapid technological changes. There is no question about the fact that the improper handling of such things as skidoos and water skis is dangerous.

Quite frankly, if we are to become involved in the regulation or control of modern means of transportation in our society and create criminal offences in relation thereto, we are creating for ourselves much difficulty in terms of the implementation of such a law. But perhaps to be more specific, we can direct our attention to that part of this responsibility which has to do with increasing jurisdictional discretion, particularly in respect of sentencing. I think we can see only too clearly how many men have become the victims of the judicial system which has been established, simply because it was not sufficiently flexible to accommodate the individual human situation. At present there are many people in our jails and penitentiaries, not necessarily totally because of their deliberate anti-social or criminal behaviour but because at some stage they came up against an inflexible law which did not permit taking into account the particular dilemma in which they found themselves.

We are now saying that those who deal with these problems in the courtroom should, in fact, be able to examine more directly and more fairly the merits of a particular

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case, and how a particular person should be dealt with. Having said that, and quite frankly congratulating the minister and his officials for introducing these changes in the law, I think we must be prepared to follow through with the next step. I believe we increasingly realize that it is not enough just to establish a better framework in which sentencing procedures can take place, we must be sure that the individuals who administer this system fully understand the implications of these changes.

I think that here the minister will have a substantial job to do, either himself or through his officials, in terms of a program of education. We know that across the country today there is a very great disparity in terms of judicial competence between those who are prepared to listen, one might say with the inner ear, to the specific case being tried at any particular moment and those who seek only to follow an anachronistic system of hard and fast rules in respect of a whole category of misdemeanours. That surely is not a system which can rehabilitate broken and difficult human beings. Further, it is not a system which will offer any eventual protection to society in respect of future similar behaviour. This whole procedure will have to extend right from the time of the police detection or surveillance through to the time of arrest, sentence and imprisonment itself.

I think the Solicitor General (Mr. Goyer) could indicate the difficulties he has encountered in trying to provide a more humane framework in our penitentiary system. I believe he has found, in a number of instances, that the policies and reforms put forward somehow become dissipated when they reach the point of being brought into effect. I believe we should look very carefully at the whole integration of the judicial activity as it extends from the police stage through to the courts and penitentiaries. While we may have the best intentions in the world in respect of improving vastly the procedures laid down within the law, unless the men and women who administer it at the local level understand these changes and can implement them effectively, we will really not correct the situation but will create fear and uncertainty in the minds of those presently administering the law. I would argue that in a situation of uncertainty and fear we may achieve the very opposite to what is intended. I think we have seen some evidence of this in this country in the form of a real reactionary backlash.

From speaking to individuals involved at the institutional level in these reforms or changes which are being made, I have found there seemed to be a good deal of fear and uncertainty, as well as very great misunderstanding, concerning what we are about. I would argue very strongly that having put the foundation in place, as the minister is attempting to do with this legislation, he should regard this as but the beginning of the process. I think some of my colleagues mentioned the need for training programs in human relations, and in respect of the whole complex way in which our society operates, because the whole nature of criminal actions themselves has to a degree changed. I think that to the degree we have changed our attitude concerning what our places of incarceration should be, we must be very careful about how we are to get the greatest return from these institutions.