

man's family I hope it may be some consolation at least to them to know that his death was the cause of remedying a serious defect in our criminal law.

I wanted to say one word about what I thought was a distressing spectacle which occurred recently in the investigation of a young woman's death at Bracebridge. I think we can all regret the personal tragedy involved, but just as regrettable was the public exhibition which occurred. Somehow in our courts we seem to have borrowed a little from the United States. What does not appeal to me is the three-ring circus that seems to be an instrument of justice over there finding its way over here. I think any parent who read the newspaper accounts of bobby soxers thronging the courtroom must have been filled with disgust. I do not know what can be done to prevent this sort of side-show happening in the future. I should like some direction from the judicial authorities which bars children from court proceedings of this kind. I think they see enough of it in the movies. They should not be allowed to witness these tragedies which unfortunately occur all too often in real life.

I commend the minister for bringing in this bill at this time. I join with the hon. member for Lake Centre whole-heartedly in saying to the house that more progress has been made in the department in recent days, not only with respect to judicial matters, but also with respect to penitentiaries. We have a great deal of confidence that the minister will bring into effect many more of the recommendations of both the Archambault and the Gibson reports, so that we shall not find it necessary to use this new section dealing with habitual criminals.

Mr. F. E. JAENICKE (Kindersley): Mr. Speaker, we need only to discuss the principle of the bill now before us, but I find that there are thirty-four principles involved. I may say that I more or less agree with all of them and commend the minister for bringing in the amendments to the criminal code.

I listened with a great deal of interest to the remarks of the hon. member for Lake Centre (Mr. Diefenbaker). I have always had great respect for his knowledge not only of criminal law, but of criminology in general which he has gained in his experience as a distinguished criminal lawyer in my province.

As I say, there are thirty-four principles involved in this bill, and we can discuss them in committee. I think they are all commendable and should be supported; but there is one principle contained in section 18 which is something revolutionary, I may say, in our

[Mr. Croll.]

criminal law, and has been revolutionary in any other country where it was first introduced. I agree that an habitual—I might call him an incurable criminal—should be put in a place of safety so that he will not be able to do any more damage. I would consider an incurable criminal on a par with a mentally incompetent person. Criminals who persist in committing crimes, in spite of their previous punishments, are, in my opinion, mentally defective as compared with ordinary law-abiding citizens who accept our moral code, which is reflected in our criminal law as reasonable and necessary. The difficulty is to establish who is an habitual or an incurable criminal. The royal commission presided over by Mr. Justice Archambault devotes a chapter to the subject. They recommended an amendment to the criminal laws which is now before the house.

The amendments proposed by the minister are substantially the same as those proposed by the Archambault commission. There are a few differences, which are only procedural, but I think there are two vital differences. The Archambault commission recommended that the trial of an habitual criminal should be by a judge alone, regardless of whether or not the criminal was convicted by a judge and jury. The bill before us proposes that the same court which tries the criminal for the criminal offence should also be the court to decide as to whether or not the convict or prisoner is an habitual criminal. I have not made up my mind as to whether or not the recommendation of the Archambault commission or the bill before us is the better method. I always favour the principle that a man, if he desires to be tried by a jury, should be tried by a jury. Offhand I would say that the amendment before us is better than the recommendation of the commission.

Then, the amendment provides that the facts to be produced at the trial of a person who is tried for being an habitual criminal are, first, of his criminal habits; second, of a criminal mode of life, and, third, that there must be three previous convictions under which he could have been sentenced to at least five years imprisonment. Perhaps the minister might take into consideration that a fourth fact might have to be established before the man could be convicted as an habitual criminal, namely, that there should be some facts on his mental attitude toward the accepted standards of morality. Perhaps the minister would consider some amendment to section 575B to that effect.

There is another important difference between the recommendations of the Archambault report and the bill before us. The bill