

Criminal Code

ber and November. Various individuals were talking of revolution and were uttering seditious libels. But no royal commission was set up and Canada has reaped the disadvantages since.

The minister mentioned new rules for bail and the new plan, which I entirely support of reducing arrests to a minimum. In support of his views Canada has twice as many people in the penitentiaries and jails in Canada than has the United Kingdom. Crimes are multiplying in Canada. In an age of permissiveness, lawlessness has become a way of life. I shall not go into statistics except to read to the House the percentage increase in crime between 1962 and 1969, the last year for which statistics are available. Murder increased by 57 per cent, attempted murder by 169 per cent, rape by 77 per cent, assault, not including indecent assault, by 159 per cent, robbery by 99 per cent, breaking and entering by 97 per cent, theft of property valued at more than \$50 by 100 per cent, and frauds by 92 per cent. Mr. Speaker these statistics are an indictment of us all. I believe the legislation now before us will be beneficial in establishing for the individual a reasonable degree of security of his civil liberties, and at the same time will maintain the security of the state.

● (3:20 p.m.)

I suggest to the minister that it is time judges across Canada kept their mouths shut in regard to political matters. As to royal commissions I hope that the Spence commission dispensed with the use of High Court judges for political purpose commissions once and for all. However, I am concerned that during the last few months judges have been expressing themselves in a way that is not in keeping with the independence of the judiciary and its freedom from political considerations. One of our High Court judges of the Court of Appeal of Manitoba, speaking in Toronto, said:

What the FLQ did in the Cross and Laporte matter was a frontal challenge to the rule of law. What Canada did by response was a courageous refusal to yield to that challenge.

He is an experienced and able judge—

An hon. Member: But a political judge.

Mr. Diefenbaker: I did not say that. I recall, in connection with that interruption, the remarks attributed to F. E. Smith the inimitable, when he clashed with a judge. He had been truculent in the presentation of his cases, and the judge said to him, "I would remind you, if you have ever read the great Bacon, that youth and wisdom are scarcely ever good companions" Frederick Smith replied, "And, my Lord, I would remind you that the same great Bacon has said that the garrulous judge and justice have never met".

Let me give another example. A judge of the Ontario Court of Appeal made a speech in which he said that Canadians should be prepared to carry identity cards bearing their photograph and thumbprint. I say to that judge that he should stay on the bench, and not advise Canadians they should adopt such a system in this country. Mr. Speaker, judges should not give their opinions when they are of a political nature. I could mention two

[Mr. Diefenbaker.]

others in inferior courts who have been expressing themselves in a way that cannot be justified and cannot but contribute to disrupt the law in our nation.

The minister mentioned that accused persons who possess the necessary resources are able to get their freedom before trial and even after trial. There have been a couple of examples of individuals who, having been convicted but having power and wealth, have escaped. I am not going to bring up the case of labour leader Hal Banks—"Prince Hall" of Liberal favour. He got out on \$25,000 bail after having been convicted. He then left for the attractive atmosphere of New York.

However, the United States traded us one in the person of John Doyle, who still takes his part in the political life of this country. Having been convicted in the United States he got out on bail and came to Canada. When I recently mentioned in Barbados to an American lawyer that law enforcement in the United States was not always of the best, he said to me, "Well, we believe in fairness. We traded you Doyle for Banks". Both of these gentlemen were financially well off.

I shall have more to say about Mr. Doyle on another occasion. In the month of April, 1963, he was a mastermind. At a time when certain Social Credit members decided they ought to sign a petition of support for the opposition of that day, he had with him a civil servant of high rank today occupying a seat at the top echelon in a semi-judicial capacity, as well as a man by the name of Moise Durabaner who was the accepted apostle of Liberalism in Quebec. I shall be referring to this matter on another occasion. However, let me point out that Mr. Durabaner could tell a story in support of what the Minister of Justice stated, that too often when an individual is incarcerated awaiting trial, practices take place that are not in keeping with justice. He was kept in custody for seven months, was pressed daily and weekly and threatened until he finally confessed. This is a matter that might be looked into because it would be an interesting story. He has been in custody a long while and there are some who are not anxious that he get out on parole after 5½ years.

Since the minister has become "Mr. Clean-up" in the world of criminal law, I think the time has come for a commission to be appointed to look into the state of Canadian penitentiaries. Two or three investigations have been made. I have asked a number of questions during the last couple of weeks concerning the Prince Albert penitentiary. There again, as always, the little man at the bottom gets the condemnation. A public investigation should be conducted into that penitentiary and into others across the country.

The criminal law protects the security of each of us. But the individual who is before the courts has a right to the preservation of those freedoms without which life itself is meaningless. The Minister of Justice referred to the provisions concerning bail, imprisonment and a denial of cruel and heinous punishments going back to the days of the British Bill of Rights which were incorporated in the United States Bill of Rights and amendments to the Constitution, and are included in our Bill of Rights.