

The other question relates also to the amendment and concerns the word "assistance". The wording reads:

—gives that other person any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment—

Has the minister contemplated the extent to which this goes? I suppose it would not cover a witness who is appearing for the accused, nor, hopefully, would it cover his counsel, although one never knows. But what about somebody who provided funds to permit an accused person to sustain a defence? Such a person would, in fact, come squarely within the description of a person who gave to another person charged with an offence assistance to prevent, hinder or interfere with the punishment of that person, but not with his apprehension. I am not trying to be picayune about it, but obviously there is an attempt in this clause to refine and particularize things which in the past have been considered as offences against the obstruction clause. These are two points which have been running through my mind, and I hope that the minister, either at this time or before we have completed our discussion on clause 5, might like to answer them.

• (12:40 p.m.)

**The Deputy Chairman:** Is the committee ready for the question?

**Mr. Turner (Ottawa-Carleton):** Mr. Chairman, I think the words in the bill are fairly clear. The gravamen of the offence is that any assistance that is given, in order to fall within the particular clause, must be given:

—with intent...to prevent, hinder or interfere with the apprehension, trial or punishment of that person—

That in no way would cover any assistance given by way of counsel at the trial. It is put in these precise terms in order that it be made part of the main body of the bill and stand with the bill.

**Mr. Baldwin:** Wouldn't it cover the prevention of the punishment? I suppose it would be wide enough to cover that.

**Mr. Turner (Ottawa-Carleton):** Well, yes, but prevention of the punishment would, I assume, be an attempt to liberate the accused from whatever custody he was under, and not an attempt to aid the accused in a legitimate defence to the charge.

**Mr. Baldwin:** Would the minister answer the other question about whether or not these offences established by clause 5 would in fact, under other circumstances, be offences which could be punishable as infractions under section 119 of the Criminal Code because anything which is contemplated here would, under the decided cases, constitute an obstruction of justice? Isn't this provision in the bill only because the government feels there should be an increase in the penalty from two years to five years?

**Mr. Turner (Ottawa-Carleton):** That is one of the principal reasons.

### Public Order Act, 1970

**The Deputy Chairman:** Is the committee ready for the question?

**Some hon. Members:** Question.

**The Deputy Chairman:** The question is on the amendment moved by the hon. member for Abitibi. All those in favour of the adoption of the amendment will please rise.

All those opposed to the amendment will please rise.

*And the Second Clerk Assistant having announced the result of the vote as: Yeas, 1; nays, 53:*

**The Deputy Chairman:** I declare the amendment lost.

[Translation]

**Mr. Laprise:** Mr. Chairman, on a point of order.

**The Deputy Chairman:** The hon. member for Abitibi on a point of order.

**Mr. Laprise:** Mr. Chairman, you said, it seems to me, that the amendment did not receive one yeas, but two members have risen. I do not know whether the Clerk has counted them.

[English]

**The Deputy Chairman:** I guess this must have been a slip of the tongue on the part of the Clerk. I saw two members who voted for the amendment, and so we will change the record if it is not in order.

Amendment (Mr. Laprise) negatived: Yeas, 2; nays, 53.

[Translation]

**Mr. De Bané:** Mr. Chairman, I should like first to mention an error in translation. The word "trial" has been translated by "jugement" whereas in clause 7 this word has been translated by "procès". Therefore I believe that here too we should translate "trial" by "procès".

In addition, I should like to read the version which I should have suggested:

*Est coupable d'un acte criminel et passible d'un emprisonnement de cinq ans au plus, quiconque, sachant ou ayant des motifs raisonnables de croire qu'une autre personne est coupable d'une infraction prévue par la présente loi, lui fournit une aide quelconque dans l'intention d'en empêcher, entraver ou gêner ainsi l'arrestation, le procès ou le châtiment pour cette infraction.*

As to the form, Mr. Chairman, I see two differences between this clause and section 23 of the Criminal Code. The first is that section 23 of the Criminal Code says "knowing" while here we have "knowing or having reasonable cause to believe".

The severity which is added to clause 5 does not seem necessary to me while the other difference seems to me essential. I think that with this clause 5 we take away both privileges provided in section 23 of the Criminal Code on behalf of the married spouses and I shall read in English both of these exceptions mentioned in the Criminal Code.

[English]

An accessory after the fact to an offence is one who, knowing that a person has been a party to the offence, receives, comforts or assists him for the purpose of enabling him to escape.