

*Oral Questions*

**Mr. Lang:** I think I would want to know more about what actually happened before making a decision on that.

**Mr. Stanfield:** When I asked the Minister of Justice when he is going to learn more about it whether he would give the House some assurance that he is really interesting himself in this problem with a view to resolving it, I am sure he was aware and he will agree that while Dr. Morgentaler is in a provincial institution, he is serving a sentence under a statute passed by parliament. What assurance can the minister give us with regard to what he proposes to do?

**Mr. Lang:** The fact that parliament enacts the Criminal Code does not add to the responsibility of the federal government with regard to either prosecution or the maintenance of provincial jails. If the Leader of the Opposition wishes to make a representation to the Quebec minister of justice, he can do so directly. I will do so also if I have something about which to make representations to him.

POSSIBILITY OF LEGISLATION TO PROHIBIT APPELLATE COURTS FROM OVER-RULING JURY VERDICTS

**Mr. Walter Baker (Grenville-Carleton):** In view of the concerns that have been expressed by the Leader of the Opposition, by the public generally, and just lately by the Ontario Criminal Lawyers Association, and in view of the fact that because of the methods that are being used to prosecute Dr. Morgentaler these concerns are likely to be around for some time, I wonder if the minister, in the course of the investigations that he might be making with respect to this case, will seriously consider an immediate review of the provisions of the criminal law relating to the powers of judges to over-rule the findings of the juries because there is likely to be, over a considerable period of time, a whole series of cases of this nature. I ask this question because of the insecurity that exists in the minds of the public with respect to the treatment of this particular accused as a result of the methods that are being used by the Quebec attorney general?

**Hon. Otto E. Lang (Minister of Justice):** Mr. Speaker, I have no evidence that the Quebec attorney general is in any way misusing his powers. I do not think it would be proper for us to discuss the case which is before the court beyond that.

SUGGESTED REPRESENTATIONS TO QUEBEC MINISTER OF JUSTICE CONCERNING TREATMENT OF DR. MORGENTALER

**Mr. Walter Baker (Grenville-Carleton):** In view of the answer of the minister, which indicates that he has not understood the basis of the questions that have been asked, namely, the fact that there is some difficulty in the minds of the public with respect to the position of Dr. Morgentaler, and as he is the Minister of Justice of Canada and, as the Leader of the Opposition said, this man was convicted under a Canada statute, would the minister undertake to at least make representations to the Quebec minister of justice, in view of the public concern all across Canada, and report his findings to the House if he does not see fit to set up an independent inquiry or

[Mr. Stanfield.]

appoint an individual of the stature referred to by the Leader of the Opposition?

**Hon. Otto E. Lang (Minister of Justice):** The responsibility of the House was exercised when it adopted the particular sections of the Criminal Code in 1969. If there is confusion in the minds of the public about whether the Minister of Justice standing here has any role in relation to the prosecution and in relation to a provincial institution, that confusion is being sown and continued by the questions of the opposition which are directed as though there was any responsibility here with regard to this. This is a matter completely within the purview and jurisdiction of the province.

**Mr. Stuart Leggatt (New Westminster):** Mr. Speaker, my supplementary question is for the Minister of Justice. In view of the well known responsibility of the Canadian Minister of Justice to see that justice is administered in an even-handed way across the country—and that responsibility is exemplified when the present Minister of Justice calls judges together on the sentencing policy to ensure we have even-handed justice in Canada—and in view of the obviously exceptional circumstances in the Morgentaler case and the fact that there are 13 counts being dealt with one at a time against Dr. Morgentaler, will the minister advise the House, in these circumstances where the head of the criminal section of the Canadian Bar Association calls it persecution, why he has not interceded to see that justice is administered in an even-handed way in view of the body of evidence he has available to him?

**Mr. Lang:** Mr. Speaker, I am happy to accept the proposition that my role as Minister of Justice sometimes goes beyond what is technically required of the office. However, I do not think the hon. member's example in regard to judges really carries his case very far. The bringing together of judges is designed to help them see what each understands about the exercise of discretion and is quite a different issue. The administration of justice, in relation to the laying of charges and in relation to the pursuing of those charges, is a matter in the hands of provincial attorneys general. The hon. member has not put before me any indication except a statement of his own about the conduct of a provincial attorney general, which would lead me to expect or calculate that the attorney general is in any way abusing his office. If that were true, even that might be a matter for another jurisdiction, but none of that has been put before me to indicate that this case is proceeding in a different way from normal.

It is, however, before the courts, and I urge hon. members to bear in mind the longstanding tradition and rule of this House about not discussing matters which are before the courts. If they do not care about what they do in relation to the court process, they might at least consider the position I am put in when I have to respond to questions about court cases.

POSSIBILITY OF CABINET ORDERING NEW TRIAL FOR DR. MORGENTALER

**Mr. Stuart Leggatt (New Westminster):** The Minister of Justice calls provincial attorneys general together from time to time on this subject, and he has shown responsibil-