

*Criminal Code*

lawyers, judges and used by those who criticize our system of justice is that there is one law for the rich and another for the poor. I think a legal aid system goes a long way toward dissuading people from speaking in that manner and from taking this attitude.

I was a little disturbed when the hon. member for Notre-Dame-de-Grâce quoted statistics, not so much because he read them but because, unhappily, that seems to be the true picture. Although he was only quoting from 1,000 returns, I think it would be generally true of the attitude of the general public to the legal profession. I do not blame the public for this; I blame members of the legal profession who should spend more time on public relations' work.

**Some hon. Members:** Hear, hear!

**Mr. Cullen:** What struck me particularly was that the public felt criminal lawyers were hypocritical. Yet to my way of thinking no one who practises before the courts has a more difficult task than the individual who practices criminal law. To illustrate, take the case of a child who is sexually assaulted, killed, or beaten. Someone is accused and charged with an offence. Invariably you hear the comment, "How could anybody defend a monster like that?" Unhappily, that attitude is becoming all too prevalent in discussions that you hear on the street. Yet that individual, if we believe what we preach, is innocent until proven guilty: he is entitled not only to a defence but to the best possible defence available.

• (4:50 p.m.)

I am proud to be a member of the legal profession because among our profession we have dedicated men who are prepared to risk rust or stain on their reputations by ensuring that an individual is adequately protected before the courts. I take my hat off to any criminal lawyer in this province, because I know the difficulties he goes through. It is the freedom of the individual that he has to protect, and sometimes he has to associate with those who might be called shady characters. He has to associate with them to the extent that they come into his office and seek his help. He is not pleading his case, his position; he is pleading the case of the individual he is called upon to defend. In this respect, I believe the gentlemen who had the most difficult cases in recent history were those who defended the Nazi war criminals. It had been suggested by many people that those monsters should be given kangaroo court justice, taken out and shot. But they were given the benefit of a true court hearing. Before people begin to criticize criminal lawyers I hope they will think about the fantastic job that these men are called upon to do.

Another individual who criticizes the courts, Mr. Speaker, is the person who loses a law suit that he thinks he should have won, or the individual who convinces himself that he has done no wrong and that the other party involved is completely wrong, only to find the judge decides that the responsibility must be shared, perhaps on a 50-50 basis. That individual will be even more critical if he is found to be 70 per cent at fault. He will be critical of the court and perhaps his lawyer for not doing a sufficient amount of work or background study before taking the case. He may even criticize the fact that the lawyer, in his

opinion, did not have a sufficient degree of expertise to cope with the case. We will always have that kind of criticism.

If I had the time I would speak to every one of the thousand people who returned the paper to which the hon. member for Notre-Dame-De-Grâce referred and find out why they feel as strongly as they do. I would like to find out whether they have a strong feeling about capital punishment. Do they feel that once a policeman picks somebody up it is game over; that the police have arrested the right man and he should automatically go to jail? People who feel that way will not be convinced that a lawyer has a role to play in the courts. I would like to interview those people individually. I maintain that those who wrote this report should follow it up and find out why people have such ideas. Are they ideas that have been foisted upon them by others, or do they sincerely believe there is something wrong with what they call the "rotten Bar" and even with the judges who preside over it?

I do not wish to speak longer on this motion. I support the bill. I doubt that it will be carried in its present form, but its subject matter should be discussed by the Standing Committee on Justice and Legal Affairs.

**Mr. Lloyd Francis (Parliamentary Secretary to Minister of Veterans Affairs):** Mr. Speaker, I have listened to this debate and I must say that I agree with the principle expressed in the bill. In fact, there does not appear to be any fundamental disagreement with it. But a bill like this should be examined on its merits, and carefully examined. In this respect I have been a little disappointed by the debate from the other side of the House. I welcomed the intervention of the hon. member for Winnipeg North Centre (Mr. Knowles). I think he spoke for only three minutes. However, we have had no contribution from hon. members on that side of the House.

**Mr. Knowles (Winnipeg North Centre):** We don't want to talk out the bill.

**Mr. Francis:** The purpose of this House is to examine matters that come before it, and I shall put forward one or two reasons why I think there should be further debate on the bill before it goes to committee. I agree with the principle of the bill. I am not a lawyer, but as I understand it, ordinarily a judge before whom an accused appears for the first time will be asked if he is represented by counsel and, if not, whether he wishes time to instruct counsel. If the answer is yes, a reasonable adjournment will usually be granted.

Judges are very conscious of this aspect in the case of a person who is in custody, perhaps having been arrested only the night before. If such a person desires counsel and is unable to retain counsel privately, the judge will usually inform him of whatever legal aid may be available. In provinces where legal aid is more highly organized, there may even be duty counsel present in the court. On the other hand, where the accused simply appears in response to a summons and where he has had ample time to retain and instruct counsel prior to his appearance, the court may be less willing to grant a lengthy adjournment in order to secure counsel unless there appears to be good reason why the accused was unable to do so.