

stands them, has attracted a large measure of sympathy, and while, even in view of the facts, as I think I shall be called upon to more correctly state them, the unfortunate Fatsari is undoubtedly deserving of all sympathy, it is nevertheless my duty to point out that the Crown, so far as Canada is concerned, has never taken up the position that it was called upon to justify any conduct upon its part by resorting to the maxim, The King can do no wrong. I am at a loss as to the source of the hon. gentleman's information that this Government has taken up that attitude as a justification of some action of its own, or, in any way in connection with the case of Fatsari. The hon. member complains that Fatsari was the victim of a judicial error, and, as I understand it, he puts before this Government and this House that by reason of that fact, this Government should make compensation to Fatsari for the judicial error for which he alleges the Government is responsible. Let me point out at the very outset that Fatsari's trial and the verdict against Fatsari which consigned him to the penitentiary, were entirely at the instance of the Crown in the right of the province of Quebec. The entire prosecution was a prosecution at the instance of the provincial authorities. In bringing that prosecution they did their simple duty. I am not saying that they are responsible for it as imputing any fault under the circumstances as they stood at that date. It is not denied that the facts that they had before them were such as not merely justified them but called upon them to perform their duty of putting the criminal law in operation. Over that entire action the Government of Canada had absolutely no control. They had nothing to do with what was done, they could have nothing to do with what was done. The entire share of Canada and of the Parliament of Canada was that the Parliament of Canada had enacted the criminal law which made certain acts on the part of people a certain offence and provided a certain penalty for that offence. It was the duty of the province to administer that law, and in the performance of that duty the provincial authorities brought Fatsari to trial. Whether they were right or wrong this Government, and the Crown in the right of Canada, can have no responsibility. He was brought to trial before a provincial court, he was tried before that court by a jury of his peers, and upon the evidence laid before them they found him guilty of an offence which, under the law,

[Mr. Doherty.]

subjected him to a particular penalty. The judge in the performance of his duty imposed that penalty, and this man underwent a certain portion of it. If my memory serves me, the sentence was for fifteen years. He served seven or eight years of the sentence.

Mr. LEMIEUX: Six.

Mr. DOHERTY: He at all events served a certain substantial portion of that sentence. What I want to make perfectly clear is that for all of that, and in the bringing about of that situation, the Government of Canada had absolutely no responsibility for it, and had absolutely no part in it. My hon. friend says that the verdict and the sentence following upon it constitute a judicial error. I shall have a word to say in regard to that proposition in a moment, but let us assume for the moment that my hon. friend is perfectly correct in that; I ask him who should bear the consequences of that judicial error other than the parties who brought that prosecution and who, therefore, if there were any error giving rise to a right for compensation, are the persons who ought to compensate for the error committed.

As far as the unfortunate man is concerned, he has all of my sympathy, but the case that is put forward is, in effect, a complaint, not that there was a malicious prosecution, but that there was a mistaken prosecution. I do not want to go into the question whether that was a mistaken prosecution or not, but surely, if they were mistaken in that prosecution, the responsibility is on the Crown in the right of the province of Quebec, who instituted and carried on that prosecution and brought it to the termination which came about. In doing that the province of Quebec, in my judgment, were merely doing their duty, and I do not want to discuss the question whether they, having done their duty, should be held responsible or not. All I want to point out is that if this unfortunate man suffered by an error entitling him to compensation, his compensation should come from those who, unfortunately, were led into that error, and who, acting, as I think, in perfect good faith, brought about that trial which resulted in a judicial error. Why it should be suggested that a Government that not only had nothing to do with it, but which, if it had wanted to stop it, could not have stopped it, a Government that had absolutely no control over these proceedings,