

Adjournment Debate

Tonight, on the basis of the question I asked on July 9, I want to develop an appeal to the minister. I do not appeal to emotionalism or from hysterics, but to justice and to humanity. The state has got its legalistic ruling that section 45 of the Criminal Code is not available as a defence in abortion cases. Let us allow the matter to rest there. As a result of that ruling, Dr. Morgentaler has been jailed for 18 months. In addressing myself to the justice and the humanity of the situation I want to say that I do know something about criminal prosecutions. I was a Crown attorney for some three years and I made my entire livelihood in the courts engaged in criminal prosecutions—

Mr. Lang: Let others blow your horn!

Mr. Dick:—unlike the minister, who has never made his living in court.

Mr. Prud'homme: May I ask the hon. member a question?

[*Translation*]

Madam Speaker, on a point of order.

The Acting Speaker (Mrs. Morin): Order, please. It is my duty to remind the hon. member for Saint-Denis (Mr. Prud'homme) that no point of order, question of privilege or any question may be allowed at this point.

[*English*]

Mr. Dick: If the hon. member for Saint-Denis (Mr. Prud'homme) would be patient I would gladly answer his question in the House or outside. But perhaps I might be permitted to continue my remarks in the time allotted to me.

In dealing with this matter, and knowing how criminal charges are usually laid, there is generally an all-inclusive charge when a number of charges are being preferred, or the charges are usually set out in a number of counts in one indictment. However, that is not the case here. As a result of investigation into this gentleman in 1973, 12 charges were laid. They were separate charges and the first was brought as a test case.

I am not disagreeing with that and I am not arguing the points of law involved therein. But the Crown did not bring in the one all-inclusive charge which I think should have been preferred and which most Crown attorneys would have brought in; they brought in a test case and got their conviction. But they did not drop the other 11 charges once they got the legalistic problems out of the way.

On the other hand, they did not go ahead and put the other 11 charges into an all-inclusive charge. Nor did they put them all into one indictment. They laid a second charge, with the same result—a jury acquittal. The Crown appealed. On the same day that they launched the appeal, on June 11, they laid 10 more charges based on evidence gathered two years earlier.

In all my time as a Crown attorney I have never known the police and the courts to sit for two years on evidence relating to charges under the Criminal Code of this

[Mr. Dick.]

nature, and then prefer charges when they had all the evidence. I appeal to the minister tonight. By going through the charges one by one, and taking into cognizance the fact that the government in that province, or the state, tied up all the finances of the accused due to alleged taxation irregularities, leaving him no money to defend himself, yet not preferring charges under the act, and with the minister taking the irregular step of preferring the indictment directly without going through a preliminary hearing in each case, I suggest in fact this is persecution. It is like plucking the wings off a fly one by one.

I plead with the minister to head off any subsequent persecution in this manner. If the minister cannot use his persuasive powers in dealing with Mr. Choquette directly then he should allow one conviction and sentence to stand—as the minister is going to, and I am not arguing that point. But as the Minister of Justice he should stand up to stamp out persecution. He should stand up for humanity and disavow the bringing of ten more charges that are coming before the court two years after the evidence was available.

If the state goes ahead with the charges in this manner, I ask the minister to use his powers under section 632(2) whereby he can grant a pardon, or to use his powers under section 617(a) to order a new trial so as to indicate that the abuse of power to prosecute will not be tolerated in our judicial system. He should give notice to the minister of justice of the province of Quebec that any further prosecutions of this kind will be futile and will not lead to further sentences. I make that appeal to the minister.

Hon. Otto E. Lang (Minister of Justice): Madam Speaker, I doubt whether I have for a long time heard so many absurdities coming from someone who calls himself a lawyer.

Mr. Dick: You have never been in court.

Mr. Lang: I may not have been in a courtroom, but as a professor I would have marked a paper that contained those sort of statements with an F, but only because there is no lower mark. I would not have said that had the hon. member not chosen to try to demonstrate his own knowledge of the law. I am not surprised now that, a day or two ago, I heard that even Tory Ontario at one time insisted that the hon. member stop being a prosecutor on their behalf.

As far as emotion is concerned, if the hon. member looks at the record he will see a simple answer on my part. I replied:

No, Mr. Speaker, I answered that question before and I said that while I thought it best to put to rest the largely hysteric worry about the jury system which developed after the decision in the Morgentaler case... I had no doubt at all about the rightness of the Supreme Court decision.

That hardly sounds emotional, and it ill-becomes the hon. member to pretend to join the cause of those who so absurdly argue that any kind of emotionalism, or bias, or prejudice is at the root of the stand that I take in support of the law. That stand on his part is indefensible and at least beneath the dignity of a person or a member.