

of Justice upon his new, unsupported, uncorroborated and unsworn statement, I think indicates that the Minister of Justice takes a view of this controversy which will not be participated in by any lawyer in this House who has any practical acquaintance with criminal justice in Canada. Suppose this boy had made a confession and stated that this shooting was done in self-defence, would any one for a moment take the view of the Minister of Justice that it would be within his competence, or a proper function for him to exercise, to try that question himself, and to say that that boy should go forth as innocent out of prison? Would not any one say, under the circumstances, that the proper course would be, if anything could be said in favour of the boy, to grant him the right to have tried by a jury the question which he should have put forward in the first instance, and that in extending to him that favour and that clemency, you were going to the very utmost possible limits that you could properly go. I regret that I have been compelled to speak as I have of the action of the Minister of Justice in this case, for whose abilities and character I have the utmost possible respect; but I feel I would not be discharging my duty as a representative in this House if I had not occupied to the extent to which I have the time of the House in bringing this matter to its attention, and I trust the action of the Minister of Justice in this case will not at any time in the future be invoked in favour of any proceeding of this character.

Mr. POWELL. Was the boy sworn, and did he give evidence in his own behalf?

Mr. BORDEN (Halifax). The boy did not go on the witness stand at the trial.

The PRIME MINISTER. I am sorry I did not hear the whole of the discussion which has arisen on this question. I would not pretend to speak with authority upon it, but as a member of the Government and one of the advisers of His Excellency, and having had to advise in this matter I think I owe it to the Administration to put before the House the view which guided us in arriving at the decision we reached. I may say to the hon. gentleman who has just criticised the action of the Government that there is no duty perhaps which it is more painful to exercise and which brings such a sense of responsibility upon those whose duty it is for the moment to advise the chief of the executive, than that of reviewing capital sentences. When a case of capital punishment is brought before us, where the fate of the life of man practically lies in the hands of those who for the moment are the advisers of the Crown, I need not say that we always approach it with a good deal of nervousness and trepidation; and if there is a principle of British law which should apply to the administration of the criminal law it is that it would be far better that ninety-nine guilty should

escape than one innocent man should suffer the dire penalty of death. Leaving aside altogether the confession made by the prisoner after the trial, when he was under sentence, if the case had come before us simply as it was submitted to the jury, it would have been very difficult, so far as I am personally concerned, for me to have confirmed that sentence, in fact I would not have confirmed it under the circumstances as revealed to the jury; but with the confession of the prisoner, I certainly would not have consented to have the sentence of death carried out on this boy. The hon. gentleman has stated the boy is intelligent and cool. I admit all that. I think the boy is not remarkably intelligent, but still is possessed of a good deal of intelligence and coolness, but we must remember that he was a lad only 17 years old. Therefore, the verdict of the jury, as the case was presented to them, was quite proper; they could not come to any other conclusion than that which they reached, because the only question submitted to them was whether the boy had killed the Armenian. That was the bare question submitted to them. The question of motive, of other incidents which might have thrown light on the facts which ultimately came to be weighed when sentence had to be reviewed, did not appear at the trial. There is no doubt the case happened in this way. This boy went out shooting, leaving the house to shoot partridges. He heard some noise in the distance. There was a rush and a noise and he thought there was big game. The hon. member for Halifax said that country was open, and that the idea that the boy would look for his game under such circumstances was absolutely preposterous. It may have been preposterous to a man advanced in life, having knowledge of life, but certainly for a mere lad to have entertained such an opinion was not extraordinary. He thought there was big game. He put a bullet in his gun in addition to the charge already in it. Finding it was not big game but simply cattle, he wanted to take from the gun the bullet, but he could not do it and went away. Then accidentally, as I believe, the trigger was caught in a branch, the gun was discharged accidentally and the pedlar was shot in the road. Then the boy was scared. He ran away, never said a word to anybody, never opened his lips. Everybody inquired, who killed the man? The circumstances pointed forcibly to the boy and it appeared clear that nobody else could have done it. He was arrested, put upon trial, but never gave his confidence to his counsel. The circumstances were such that the jury could come to no other conclusion than that he committed the deed. The question might have arisen, what was the motive? It could not have been revenge, because he did not know the pedlar. Neither could it have been covetousness