

Criminal Code

do it in any event, it would be quite worth while to follow his suggestion to make sure that the commission will consider insanity as a defence to criminal responsibility for sexual offences and in relation to sexual offences.

Mr. Winch: I completely agree with the suggestion that this entire section could very beneficially be referred for study to a royal commission or to one of the commissions or committees that have already been established. I sincerely hope that the minister will give some more thought to this matter and see whether he could not possibly do that at this time. I do not think that a great many changes have been made, and that fact at least leads me to the belief that perhaps all the thought that should be given to this most serious problem has not yet been given to it. However, in dealing in particular with section 135, as it may be a long time before we again see the Criminal Code up for amendment, I feel that we should have a thorough knowledge of each section and that, if we have any doubts, we should ask the minister to explain. I have one with respect to section 135, and I may tell the minister that I am not being facetious. The section reads:

A male person commits rape when he has sexual intercourse with a female person who is not his wife,

- (a) without her consent, or
- (b) with her consent if the consent
- (i) is extorted by threats or fear of bodily harm, . . .

That is rape, according to the section, and the man is liable to imprisonment for life and to be whipped. May I say, Mr. Chairman—and through you to the minister—that it is rape if a man holds a gun or a knife on a woman and demands and takes sexual relations. What is it if a female holds a knife or a gun on a man and demands sexual relations? Is that also rape? If so, how is it covered? I do not see how it is covered under section 135.

I said, Mr. Chairman, that I was not being facetious, and I am not. I am very serious. I have never heard of any such incident in Canada but in the United States, within the past 12 months, there has been case after case—and in the courts the matter has come up—where a young man in a car stopped and picked up girls. I am thinking of two cases now, one where two girls were hitchhiking and one where there were three girls. One of the girls drew a gun, held the gun on him and said, "Sexual relations or we blow your head off". Those are matters of fact and of record. Is that rape? I think it is a question that should be raised here and one on which we should have some information, namely as to whether it is rape on

[Mr. Garson.]

one side and is not rape on the other. If we had—and I hope we never shall—any such crime in Canada, how would it be handled? I do not see how it could be handled under the sexual offence sections from section 135 on, because all the reference is to a male and not a female. Would the minister comment on that matter?

Mr. Garson: I can quite appreciate the fact that my hon. friend is not facetious in the matter at all. However, I must say that I have reached the years of discretion in Canada without ever having heard of such a case as this until this very minute.

An hon. Member: Oh, that kind of case is restricted to British Columbia.

Mr. Garson: I did not think this type of case had occurred in Canada. I understood the ones referred to were in the United States.

Mr. Winch: I said I did not know of any such cases in Canada, but there have been numerous newspaper reports of such cases in the United States.

Mr. Garson: If we had a case of that kind in Canada I think we might well consider amending our code. But in the meanwhile, of course, the ladies, if they had been in Canada, or doubtless even in the United States, could only have been convicted of rape if their pointing of a gun was sufficient to convince the man in the case that the benefit of sexual intercourse was the lesser of two evils; and it would not be until the intercourse itself had taken place that the offence of rape would have been committed. If it were committed and the male victim, who under the circumstances could be forgiven for not being too gallant in the matter, went and informed the police, I should think there are other sections under our code which could be invoked. For instance, the use of firearms to intimidate in that way would be an aggravated assault; and I would think that if not rape, some other offence could be charged and could be proven and that probably after the charge had been proven the court would have considerable latitude with regard to punishment for that offence. Thus if the court took quite a dark view of what had happened—and I must say that I would not blame it if it did—it could impose a fairly stiff penalty upon the accused ladies.

Mr. Knowles: Ladies?

Mr. Cameron (Nanaimo): Mr. Chairman, I would suggest that, biologically, it is possible for the male to be seduced but not for him to be raped. However, to deal with the question raised by the hon. member for Oxford, I should like to quote from a book that I happened to be reading just now and which