

Criminal Code

When other hon. members are through I will go on, Mr. Speaker.

Mr. Speaker: Order. Perhaps since the hon. member himself has interrupted his speech I may tell him that I think he is wandering away from the subject. The manner in which the courts deal with the sentences to be given people who have committed different crimes should not, I think, come in at this time. Let us keep our remarks within the ambit of the resolution. I would ask hon. members to keep silent. They may whisper, but they may not speak loudly enough to disturb the hon. member who has the floor.

Mr. Pouliot: I beg your pardon, Mr. Speaker. The matter I was dealing with was capital punishment, and I was explaining to hon. members who do not belong to the legal fraternity as do you and I the role of the jury in the matter of capital punishment. I was also explaining to them that the right of the jury to find a man guilty of murder should remain on the statute books and that the sentence is not given by the jury but by the presiding judge, who has no option. When the jury reaches the verdict that the man before the court is guilty of murder, then it is the duty of the judge to sentence him to be hanged, subject to an appeal to the Minister of Justice (Mr. Garson) who is also the Attorney General of Canada.

But my point, Mr. Speaker, and I want it to be well understood, is that by leaving that provision in the Criminal Code we leave to the jury the right to decide whether or not a man is guilty of murder. In that connection, sir, I cannot but remember what was said to me by no less a criminologist than the late Sir François Lemieux, then chief justice of the superior court of Quebec. He told me that the institution of the jury was the greatest protection and the safest guarantee of freedom of the individual in our country, not only in the province of Quebec but in our country at large, because the Criminal Code applies to each of the provinces of Canada.

That is my point, and when I speak in that way my object is to explain just as clearly as I can to my hon. colleagues that by leaving the Criminal Code as it is, according to the words of a man who knew his business and is remembered as one of the greatest judicial minds of Canada, a man who saved several people from the rope, we are guaranteeing the freedom of the individual in cases of that nature.

Jurymen are chosen from amongst the common people like you and me, sir—I beg your pardon—and they are chosen from all ranks of society. Twelve are chosen, and there is a right to challenge the jury if they

are prejudiced. That is another protection. These twelve men are there; they are conscientious, they listen to the grim charge of the crown attorney, then to the plea of the attorney for the defence and then, according to British judicial tradition, there is the charge of the judge who must be impartial, otherwise the verdict is quashed on appeal. That is considerable protection.

My first point in regard to this very serious matter, Mr. Speaker, is that due to the fact that we enjoy the institution of the jury in this country there is no reason at all to change the provision of the Criminal Code concerning capital punishment for murder. I will go further than that. I submit, Mr. Speaker, that capital punishment should be applied to rape, and should be applied to kidnapping and to the defilement of children. We have enough of that. Everyone has in mind the whole story of cases such as that, but I respect you too much, Mr. Speaker, and I respect my colleagues too much to mention those cases in the house. I think every hon. member knows what I am speaking of; and do you not agree, sir, that if capital punishment were applied to rape and to the defilement of children there would be an improvement? In my humble view capital punishment was not enough in some cases about which we have read recently. In the case of the airplane crash that occurred near Quebec not long ago it was not enough.

There is something else, sir, and I will take advantage of this opportunity to speak about it now. I refer to *mens rea*, the guilty intent that must exist for the matter to be murder. Otherwise, as you know, it is only manslaughter. I take this opportunity to mention *en passant* the shameful way in which the police, whether federal, provincial or municipal, try to get confessions of guilt by promising people that they will not be so severely punished if they confess, if they declare themselves guilty. I shall have other occasions to speak about this matter.

To summarize, I find that the present dispositions of the Criminal Code do not go far enough, and I suggest that they should be extended to some other crimes which make us think that our civilization is doomed.

With respect to lotteries, I shall be very brief. There are things that I cannot understand. Those who sell the tickets are denied postal rights. Their names are published in the monthly periodical of the Post Office Department, and they cannot receive letters. Letters addressed to them go to the dead letter section. On the other hand, those who buy tickets and win money have their pictures in the newspapers, and they get their money without any trouble. I find this unfair.