

Criminal Law Amendment Act, 1972

country where it has happened a few times unfortunately, but in the whole world.

Several countries signed this agreement following a general and universal request and I believe we will be pioneers in this area since Canada will pass a legislation providing for the protection not only of pilots but also of the population that travels in those aircraft which are so huge that they could sometimes accommodate the whole population of a village in my constituency.

We are aware of the tremendous responsibilities of these pilots and this is why we are happy to see that members are eager to pass this bill.

[*English*]

Mr. G. W. Baldwin (Peace River): Mr. Speaker, I was not fortunate enough to be present during the committee meetings but I join the parliamentary secretary in saying that the members of the committee did a commendable job. I refer especially to the members of the Ralliement Cr ditiste who participated in the House. The parliamentary secretary mentioned two areas specifically—the right to appeal from contempt proceedings and the proposals relating to hijacking and air piracy.

The Criminal Code regarded as a whole constitutes a social contract whereby individuals give up a certain measure of individual freedom for the sake of society as a whole or, as Jeremy Bentham said, to produce the greatest good for the greatest number. Today, when we enter an age when it is becoming increasingly evident that many minority elements in society, not so much in Canada as in other parts of the world, are taking the position that violence may be used as a means of achieving social change, it is essential that the provisions of the Criminal Code be kept constantly under review: it is not good enough to let six or seven years go by without making amendments.

Anyone who has read the proceedings which took place in a court in Chicago when The Seven were tried must have been appalled by the conduct of the defendants and to some extent by the conduct of the presiding judge. To avoid this kind of thing, a remedy of appeal must be available in contempt cases. Let us not delude ourselves that it cannot happen here. It can. It is because of the need to preserve freedom and independence on the part of the judiciary to deal with violence as a means of revolutionary change that we must constantly review the needs of society as expressed in the Criminal Code, the social contract to which I have referred.

Air piracy is becoming in many parts of the world a means whereby changes are sought in the social structure through violence, intimidation and murder in line with certain particular views without worrying about the wishes of the rest of society, the majority of the people. We shall see a repetition of this conduct in all parts of the world and, I believe, to some extent in this country. I would therefore say it is essential that the contract providing for stability in society must be kept constantly in line with conditions of the day and amended in such a way that the rights of individuals are affected as little as possible but always bearing in mind the social purpose to be achieved. This is, really, the attitude with which we

[Mr. B chard.]

must approach these changes, and in doing so we give our approval to third reading of the bill at this time.

Mr. John Gilbert (Broadview): Mr. Speaker, the main criticisms of this bill were put forward by the New Democratic Party when the bill was debated on second reading and I shall not repeat those criticisms. But I should like to underline one of the main areas which is missing from this bill, and that is the right to counsel. I would have thought the Minister of Justice (Mr. Lang) would have included this provision in the bill. We in the NDP were most disappointed by its absence. I hope that when the Minister of Justice amends the Criminal Code in the future he will include this provision, which is a necessary and vital one if we are to have a contemporary criminal law which is credible, enforceable, flexible and compassionate.

• (2150)

That is one of my main criticisms, and the other is this. There appears to be an approach by the government to refer many problems of criminal law to the Law Reform Commission and to await their study before any action is taken. The Law Reform Commission has a great number of subjects to study and on which to report to the government, and I hope this will not be the excuse of the government for not taking action. If we are to have law and order in this country we must have, as I have said, a contemporary law that is credible, enforceable, flexible and compassionate, and to shelter behind the Law Reform Commission will not do the government any credit.

The main area of concern to me which is now being studied by the Law Reform Commission is the adversary system. I have felt for many years that the adversary system fell far short of meeting the requirements of a criminal law based on the philosophy of the reformation and rehabilitation of a person accused of a crime. It is in this area that we must conduct studies in depth and take action if there is to be a response by the people. I hope that not only will we study the adversary system but also the law relating to *mens rea*.

Bill C-2 covered many areas of concern to a large number of Canadians in the last ten years and I cannot help but underline the credit that must be given to the government for passing legislation abolishing corporal punishment. This subject has been dealt with in depth and we regard it as a step in the right direction. I have attempted to persuade the Minister of Justice not only to abolish corporal punishment as part of a sentence imposed by a court but to abolish it as a disciplinary measure in penitentiaries across the country. When this is done I think we will be taking a humane and just approach to the treatment of inmates in institutions. I would ask the parliamentary secretary to use his good offices to persuade the Minister of Justice and also the Solicitor General (Mr. Goyer) that legislation in this area is required.

I was concerned when the bill was at second reading stage, and in committee, that it would not receive passage in view of so many rumours about an election. In committee I suggested that the bill be split so we could deal with the hijacking provisions, and I am happy that tonight we