

Fugitive Offenders

second world war—that holocaust which was described to us on television—during which our armed forces have gained the respect of other nations, not only in the Battle of Britain but in the battle for survival in Europe, the battle to regain the freedom and liberty of those people, some of whom are fighting today the democratic institutions we enjoy, I do not think we should be dictating the law of the land to other nations.

Let me give an example. Suppose a fugitive escapes from another nation where capital punishment is the law and comes to Canada, and that nation asks for his extradition. I am not talking now about political prisoners. If we refuse to return him, we will become a haven for similar fugitives.

Let me refer to a study on that subject which has been done by a professor. Unfortunately I left the paper on my desk in my home in Calgary. It deals with Canadian laws relating to this subject. Since the abolition of capital punishment in Canada 87 people have been found guilty of first degree murder and some 100 found guilty of second degree murder. If that situation continues for three or four years, we will have in our prisons 900 people serving 25 years for first degree murder or 21 years for second degree murder. I do not know whether the institutions we have today are sufficiently well equipped to deal with such a large group of people. We have now in British Columbia a man who has committed his third offence but who cannot be sentenced to more than 25 years. I do not know what kind of law enforcement we would need if there were to be as many as 900 of those people confined in our prisons at one time.

What I am saying is that probably we can handle our own problems—or I trust we can, sir—but can we take care of fugitives from other lands who come here because there is no capital punishment here, and thus we become a haven for people found guilty of first degree murder and similar crimes which call for the death penalty? Under this bill, once they come to Canada they will not be extradited. I have not checked that out but I have the word of the parliamentary secretary that this is also the law in Great Britain. Of course, that does not make it right. I say that if the law of another land calls for either life imprisonment or the death penalty, it is the democratic process of that other country which should prevail for its citizens and it is not our function to dictate our law to other commonwealth nations.

Some hon. Members: Hear, hear!

Mr. Woolliams: Having said that, I wish to make the point that we should look at this provision very carefully in committee. I would like to see a witness called who is knowledgeable about the laws regarding this question in Australia, New Zealand, the United Kingdom and other commonwealth nations. I would like to know where they stand on this problem at present. This bill covers all homicide, wounding, maiming and bodily harm, illegal abortion, kidnapping, abduction, false imprisonment, rape, indecent assault, incest and bigamy, procuring, wilful non-support or abandonment of a child or dependent person, robbery, theft, housebreaking, burglary, embezzlement, extortion, fraud, forgery and uttering, perjury,

[Mr. Woolliams.]

arson, assisting to escape custody, bribery, offences relating to civil disorders and riots, usury, and here is the one which was added, namely, endangering the safety of an aircraft.

Today, most hijacking is carried out internationally, according to the media, generally by political prisoners or in the name of political prisoners escaping. They have attempted to upset things in their own countries, and they want to get out. It is similar to the situation which is ongoing in Italy. They want to trade off the unfortunate former prime minister of Italy, Mr. Moro, for the escape of those people who caused terrorism in that country. So far the Italian government has said no. I do not want to comment on that because it is an international situation. If one was to use the example of a commonwealth country, these fugitives may escape and get on a plane. They could hijack the plane, as well as commit some crimes such as wounding, killing and other things. Are these people to be considered political prisoners? It is for reasons such as this that I would like the term “political prisoners” defined in the act. I am not objecting to what this bill contains. I am indicating that the bill is wrong in what it does not contain. We do not want Canada to become a haven for political prisoners.

● (2032)

I should like to refer to clauses 12(a) and 15(b) of Bill S-8. Clause 15 reads as follows:

A fugitive offender committed to prison under section 11 shall not be surrendered under this act

(a) in any case, until the expiration of the fifteen days . . .

(b) if the fugitive offender makes an application for leave to appeal or for a writ of *habeas corpus*, until all proceedings on the application and on any appeal arising out of the application have been finally disposed of.

I do not see anything too wrong with that. Habeas corpus is a remedy of special prerogative writs. Actually it came from the United Kingdom. If a person is wrongfully incarcerated in prison because of some basic principle of law, an application is made to a judge to have him released. Habeas corpus application can be made in conjunction with certiorari, where the certiorari is quashing the charge. Then habeas corpus is an order to release the prisoner.

People have the right of appeal, which appeal falls under the jurisdiction of the county courts and the superior courts. If a person loses an application in respect of extradition and is faced with being sent back to a commonwealth country, for example, under the spirit of the act he will have the right of appeal. After 15 days, in the due process of law, he has the right to apply for a writ of habeas corpus. I think that is good protection.

Bill S-8 exempts ambassadors and heads of state to certain degrees. For example, if an English ambassador to Canada went to Australia for a visit and was kidnapped by a Canadian in that country, that Canadian could be extradited because he kidnapped an ambassador. Of course, I will deal with that question more fully at committee level.

I have made my case in reference to the question of capital punishment. We are trying to lay down the law by referring to