

*Criminal Code*

death. But why not? Did my hon. friend ever hear of a capital sentence being imposed in a rape case?

Mr. CROLL: Yes, in Chatham, Ontario, last year.

Mr. POULIOT: Often both offences are committed at the same time.

Mr. ILSLEY: Then the conviction is for murder. However, if we would just let section 44 stand I believe I could produce a draft which would meet the objections and still carry out the original intention of the draftsmen.

The DEPUTY CHAIRMAN: Does the section stand, then?

Mr. ILSLEY: Yes.

Section stands.

Mr. ILSLEY: Let us go back to section 40, which was permitted to stand earlier.

On section 40—When juror dies or is discharged for illness or other cause.

Mr. ILSLEY: With regard to section 40, the English provision is contained in the Criminal Justice Act of 1925, section 15 of which states:

Where in the course of a criminal trial any member of the jury dies or is discharged by the court as being through illness incapable of continuing to act, or for any other reasons, the jury shall nevertheless, subject to assent being given in writing by or on behalf of both the prosecutor and the accused and so long as the number of its members is not reduced below ten, be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly.

Our section is based upon that. I suggest that we should try it.

Section 40 agreed to.

On section 45—Coming into force.

Mr. FULTON: Before section 45 carries, I should like to ask the minister whether he has completed the consideration he promised to give to the question of the suppression of the circulation of crime comics. On June 9 the minister said he would consider the matter and would introduce legislation by way of amendment to the criminal code when this bill was before the house; or that, should he decide that that would not be the proper procedure, he would give his reasons at the time this bill was being considered in committee. To what decision has the minister come?

Mr. ILSLEY: Mr. Chairman, naturally I expected to deal with that, and to deal with it fully, before the discussion on this bill was

[Mr. Ilsley.]

completed. The other night the hon. member produced a magazine called *Crime* or *Crime Does Not Pay*. I still say that I regard the publication of that particular magazine as a shocking abuse of the freedom of the press. My hon. friend asks that we legislate against that kind of publication. I told him that I was drafting legislation with a view to discussing it with council and that if it was decided to introduce it I would do so when the criminal code was up for amendment. If it was decided not to do so I would give reasons. I should like to read to the committee the section which was drafted for consideration and which is the best the Department of Justice can do in meeting this situation. I want to say that I am not going to introduce it, but I shall give my reasons. For the purpose of discussion and as I assume there is some public interest in the matter, perhaps it should be placed before the committee. The section that was drafted for consideration reads:

Subsection 1 of section 207 of the said act is amended by adding thereto the following:

“(d) prints, publishes, sells or distributes any magazine, periodical or book which exclusively or substantially comprises matter depicting pictorially the commission of crimes, real or fictitious, and thereby tending or likely to induce or influence youthful persons to violate the law or to corrupt the morals of such persons.”

My hon. friend suggested that the Juvenile Delinquents Act be amended, but it would be out of keeping with the generality of that act to select one particular and specific set of circumstances and try to answer them in the midst of that general language. I am advised that this is the proper place to make an amendment if an amendment is to be made. It will be seen that if that section were to be passed, and I cannot think of any other kind of section that would be suitable, there would be several objections to it.

In the first place, it is somewhat uncertain. It would be difficult for any person to know when he published a magazine whether he was violating the law. In the second place, there would be considerable possibility of evasion under that section, because it provides for a publication which is exclusively or substantially devoted to the pictorial depiction of the commission of crime. There is no escape from the necessity that it be exclusively or substantially devoted to the depiction of crime, because otherwise you would be making it impossible for the odd picture of the commission of crime to appear in a book or newspaper. I have seen pictures depicting the murder of Darnley or the murder of Rizzio or the assassination of Thomas à Becket or something like that. It would be ridiculous to