

**Mr. John Gilbert (Broadview):** Mr. Speaker, I wish to preface my remarks by congratulating the Minister of Justice (Mr. Lang) on his appointment. I was delighted to hear him say he would take quick action with regard to the criminal law when and where changes seem necessary. If he adopts that philosophy, I think he will have the support of many members of the opposition.

Canada needs a more contemporary criminal law, one which is credible, enforceable, flexible and compassionate. If we are to have a just society, we must begin with just laws. Nowhere is this more important than in the realm of criminal law. It is here that the most fundamental values of life, liberty, dignity and property are to be protected and sanctioned. It is here that the measure of our commitment to these values will be tested.

The minister mentioned some of the reforms we have passed in this House in the past five years. He properly gave credit to the Prime Minister (Mr. Trudeau) and the now Minister of Finance (Mr. Turner). Probably most of that praise should go to the Minister of Finance. I will mention just a few of the reforms we have passed. There has been the abolition of capital punishment except in the case of the killing of prison guards and police officers. We have had the omnibus bill amending the Criminal Code which dealt with, especially, abortion and driving offences. We have had certain changes with regard to our drug laws and criminal records, and we have had the bail reform legislation. These changes were welcome and the changes in Bill C-2 are welcome. But they still fall far short of the ideal of a criminal law which is enforceable, flexible and compassionate. This is why the Minister of Justice mentioned the law reform commission. I think of the adversary system which the former minister of justice said was in many ways a myth. I think of the concept of *mens rea*. The minister mentioned sentencing procedures. I cannot help thinking of the important role judges must play in the future. I read in Karl Menninger's book "The Crime of Punishment" the following passage:

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The plight of the judge is worthy of special attention. He is usually the most intelligent individual in the system but he gets too little opportunity to use this intelligence. He must sit passively during the delivery of all sorts of mumbo-jumbo, striving to get some idea of the situation from poorly organized, tendentious stories. His observations are interrupted repeatedly by ritualistic trivialities, and he comes at last to the chore of selecting archaic medieval remedies for the treatment of an acute social and personal problem.

I should also like to quote the words Mr. G. K. Chesterton attributed to a judge passing sentence:

I sentence you, prisoner at the bar, to three years' penal servitude in the firm and God-given conviction that what you really require is three weeks at the seaside.

This underlines the importance of studying in depth sentencing procedures which prevail. A widely shared attitude toward the criminal law today is what one might call a law and order approach; the attitude is one which is punitive, coercive and retributive. We must develop a system based on a reformative approach—reformative, educative and rehabilitative.

When I read a summary in the Toronto *Star* of the speech the minister gave before the graduating class at

*Criminal Law Amendment Act, 1972*

Osgoode Hall I was left with the uneasy feeling that he was taking the law and order approach. He spoke legalistically, almost impersonally. I hope this is not what he intended because in my view it is necessary, as I say, that he take an approach which is reformative and rehabilitative. When I see provision made for increases in penalties with respect to certain offences, I again become apprehensive that the law and order approach is the one being taken. I hope I am wrong.

I was encouraged by the remarks the minister made this evening outlining his philosophy and I am sure he was sincere when he told us he would take quick action to make changes where changes appear to be necessary. At this point I should like to add that the Solicitor General (Mr. Goyer) appears to be adopting a reformative approach. There has been no criticism from members of my party of his action in arranging special leave for prisoners or his proposal to place certain inmates of corrective institutions in the homes of senior citizens as part of a program for their rehabilitation. I hope this attitude continues to prevail and I hope the Minister of Justice adopts a similar attitude.

The Minister of Justice comes to this House with many academic distinctions. He is now being tested on the basis of his practical experience as it relates to the law. I am sure he will be able to apply his academic experience to practical concerns and evolve progressive measures as a result of total exposure to all these issues. The first criticism I wish to direct to the Minister of Justice concerns the title of the measure we are considering—the title Criminal Code. The Solicitor General attempted to bring forth a bill called the young offenders act in substitution for the Juveniles Delinquents Act. Many of us thought it should not be called the young offenders act but the children and young persons act. Maybe we have reached a stage at which we could put aside the words Criminal Code and replace them with more appropriate wording. Speaking off the top of my head, I would suggest "the adult persons act". After all, many of the offences mentioned in the code are not criminal in the real sense of that word. I have in mind offences such as vagrancy, attempted suicide, prostitution and the possession of drugs such as Arthur Maloney, the noted criminal lawyer, described as crimes without victims. Surely they do not belong in the Criminal Code. I think it is time we realized that the origin of many of these offences is social; that many of these problems are social rather than criminal in nature.

Bill C-2 is omnibus in its nature and we in the New Democratic Party give general approval to the measures proposed. At the same time, we hope we can put forward constructive criticism. The first suggestion I would make has to do with consultation on a national scale—consultation with attorneys general of the various provinces, police officers, parole and probation officials, law professors, criminologists and last but not least inmates of correctional institutions. I believe that before we implement Bill C-2 these people should be called before a committee to give the minister and his officials the benefit of the experience they have acquired over the years and, on this basis, to voice their criticisms of the provisions before us.

Only recently, Alex Edmondson, a former director of the John Howard Society now associate professor at