

in order that he may undergo trial and, if convicted, punishment.

As I understand the bill, it applies only to certain crimes which are spelled out. The parliamentary secretary may want to correct me on this, but I believe that the bill applies only to commonwealth countries and not to others. We have been dragging our feet in getting a bill before the House because many of the countries, as the parliamentary secretary has said, have already endorsed and enacted their legislation.

The most questionable feature of this bill is the exclusion of persons who have committed offences of a political character. With the greatest of respect to the parliamentary secretary, I noticed that he quickly slid over that particular phrase regarding offences of a political character. Rather than being positive in the definition of offences of a political character, the bill does not say what that means. It says what it does not mean. It says that an offence of a political character does not include and I quote:

... the murder, kidnapping or other assault on or restriction of the liberty of any person who is an "internationally protected person" as defined in section 2 of the Criminal Code or who would be such a person if

(i) in the case of a person referred to in paragraph (a) of that definition, he were in a state other than the state in which he holds an office or position referred to in that paragraph, and

(ii) in the case of a member of a family referred to in paragraph (b) of that definition, he accompanied a person referred to in paragraph (a) of that definition to a state other than the state in which the person referred to in that paragraph (a) holds an office or position referred to in that paragraph (a) . . .

That sounds like a jungle of words, but this offence applies not only to a political prisoner but also to his family or to those connected with him. The definition continues:

(b) an attack on the official premises, private accommodation or means of transportation of any person referred to in paragraph (a),

(c) any crime set out in item 22 or 23 of Schedule I . . .

One of the faults I find with this bill, which may lead to some problems in the future, is the lack of definition of a political prisoner. I can give an example. The fugitives to whom I refer are not in a commonwealth country, as far as I can ascertain. However, Your Honour will recall that some years ago Pierre Laporte, labour minister in the Quebec provincial government, was murdered, and Mr. Cross, a British diplomat, was kidnapped and held for many days contrary to his wishes. A deal was made with this government at that time. I am not here tonight to criticize that deal because we were dealing with a very sensitive diplomatic question. If the people involved in the kidnapping were permitted to go to a foreign state—I believe at that time it was Algeria—Mr. Cross would be released. Cross was released, and his kidnappers left the country.

● (2022)

Assuming Canada wanted to extradite them from a commonwealth country because of new evidence, the question would arise as to whether they are political prisoners. As I understand it, they were members of the FLQ or of some agency associated with the FLQ. Where are political prisoners defined? What does the term mean? I have great sympathy for

### *Fugitive Offenders*

the parliamentary secretary who referred to a revolution taking place in a certain country, and that was a good example. Another good example is the United Kingdom where many revolutions have taken place in the history of that country, where fugitives have left the country to escape with their lives to other countries where they could live in safety.

These were political prisoners in all likelihood and I do not believe that in such circumstances they should be handed over to the country from which they escaped. On the other hand, political prisoners might mean people such as those who murdered Laporte and kidnapped Cross. If, under this bill, they are not extradited because they are political prisoners, then I would like to see a definition of that term in this bill rather than an explanation of what that term does not mean, which is a negative approach. It is like taking four away from ten and ending up with six. You say the four points are what the term does not mean and the six points are unknown.

There is a great deal of ambiguity when you are dealing with extradition, and I have had some experience with that. Generally, a trial is held, as set out in this bill. The intent does not have to be proven at the trial, only that the crime was committed by that person. If that is proven, then generally there is an order of the court for the extradition of that person to the country or state which requests the return of the fugitive, and that is where the word "fugitive" comes from.

In addition to that remedy, the Minister of Justice (Mr. Basford) always has discretion under the bill. I am not too sure—perhaps this will be clarified at the committee stage—at what point the court makes the decision and whether the minister exercises his discretion over and above the court decision or whether he exercises it in certain circumstances independently of the court. Those are some of the points that were left unanswered in the short speech made by the parliamentary secretary this evening.

Another provision in the bill which I believe should be considered very carefully is clause 18 on page 11 of the bill, which reads:

18(1) The minister may refuse to order the surrender of a fugitive offender where it appears to him that the fugitive offender would be likely to suffer the death penalty for the returnable offence in respect of which his return is requested if

(a) that offence is not punishable by death in Canada;

Let us make that very clear. The last time the abolition bill came before the House, the death penalty for all offences in Canada, such as treason and murder, was abolished. In the case of the United States, individual states have reinstated the death penalty for murder in certain circumstances. Of course, that is not a commonwealth country. If that were to occur in a commonwealth country, there would be what I would call a vacuum problem.

I do not wish to reargue the question of the death penalty, the abolition of capital punishment. That is not my job tonight when considering a bill on extradition. What I want to say is that although Canada is one of the great nations of the Commonwealth, has followed the traditions of the Commonwealth and has taken part in the horrible holocaust of the