

*Criminal Code*

respect to habitual offenders, we should also take offenders who are not necessarily habitual and place their liberty in the hands of psychiatrists.

In many instances they cannot be sure. Let me quote from one article by Doctor East, in which he quotes from another article as follows:

The extremists who see in psychiatry the sole and ultimate solution of sex crimes claim that most if not all, of these offenders suffer from some individual mental disorder which should be treated by psychological individual methods. They want the psychiatrists to decide once and for all which individuals are treatable and determine how long their treatment should last. They want the doctors to decide definitely that they are cured or else pronounce them definitely incurable, as if it could be predicated that every sexual offender would fit into one of two cubby-holes for the rest of his life.

The writer of that article is skeptical as to whether that can be done with certainty. On the other hand, I believe considerable progress can be made, and we are trying to get as much information on the subject as we can. However we are not in a position to introduce an amendment to the criminal code prescribing preventive detention for sex offenders for indefinite periods, when we are not prepared to state for sure that we can say when they should be released again.

Mr. GREEN: Has consideration been given to increasing the penalties?

Mr. ILSLEY: I cannot say that consideration has been given to increasing the penalties. But I am under the impression that that is not the solution of the problem. I do not believe that that type of crime is committed by persons who are keeping in mind the penalty involved.

Mr. GREEN: But they would be out of circulation that much longer.

Mr. ILSLEY: It is true that they would be out of circulation that much longer. But, there again, whether the state would be justified in taking that action with regard to persons who are not habitual offenders I do not know. I think it is quite justified in taking action of that sort with regard to habitual offenders.

The hon. member for York West (Mr. Adamson) referred to an important subject, namely the question of driving motor cars by persons who are intoxicated. This is a matter of increasing importance. With the increasing amount of liquor being consumed in Canada, the increasing drink bill of the Canadian people, the increasing numbers of motor cars on the highways and the increasing number of accidents, parliament should take any

[Mr. Ilesley.]

steps it can which would be effective to prevent the causing of accidents or deaths on the highways.

Much thought has been given to the matter without, I must admit, very great results in the bill. The penalties for hit-and-run drivers have been increased. That is a peculiarly unpleasant sort of offence. We thought we would be justified in recommending an increase in the penalty. On the other hand, we did not think we would accomplish anything by increasing penalties for drunken driving. At the present time the penalties for drunken driving are seven days or thirty days, as the case may be. I, personally, do not think that raising it to fourteen days or sixty days would act as a deterrent.

There again I believe that many of those persons convicted of drunken driving dread the seven days or the thirty days in gaol just as much as they would the longer periods. If we make the detention longer magistrates and courts become increasingly reluctant to make convictions. In some cases they are reluctant now to convict. So we turned our attention from penalties to definitions, and considered how best we could define intoxication. The present definitions could possibly be made more satisfactory. The ordinary definition of intoxication in relation to drivers is that degree of intoxication or of being under the influence of liquor which renders the driving of a car dangerous to the public. This means that if the person were permitted to drive the car it would be a danger to the public.

That is accepted by most of the courts. Therefore there did not seem to be much to be gained by trying to extend that definition. It is almost impossible to say that a man is intoxicated if he has had a drink we will say, within one hour, two hours, three hours or four hours, because the variation is so great. It would be extremely severe to make it an offence to drive an automobile while under the influence of liquor. The courts have ruled that a person is under the influence of liquor after he has had a drink. The influence may be quite slight, and it hardly seems sufficient to make a criminal out of a man who has had a drink. So we abandoned that.

We gave consideration to the reversal of the onus in some cases. The best section that I could evolve, and which I want to put on record for the consideration of members, is this:

Provided that whenever a motor vehicle is involved in an accident evidence that the person driving the said motor vehicle acted at or about the time of the accident in a manner indicating that he was under the influence of intoxicating liquor, shall be prima facie evidence that the said person was intoxicated.