

vote for marriage as opposed to the requirements of the state. I must, accordingly, support the amendment put forward by the hon. member for Matane.

Mr. Cafik: I should like to ask the minister to clarify one or two points following the comments which have been made on clause 5 and the amendment. As I read the clause, I can find no obligation whatsoever upon a husband or a wife to take any direct action to turn a suspected partner over to the police. All I see in the clause is that a person can do nothing to directly help somebody evade the law, who is suspected of being guilty of an offence. If a wife who suspected her husband was a member of the FLQ continued to live with him, and to provide him with food and so on in the course of normal marital relations, I cannot see that she would be guilty of any offence under the clause. If I am wrong, I may have to reconsider my decision. I should like to hear the minister clarify this point before I make up my mind.

Mr. Lewis: Suppose she knows the police are looking for him?

Mr. Cafik: I see no obligation imposed on her by this clause to turn her husband over to the police.

Mr. Lewis: She has to kick him out of the house.

Mr. Cafik: The hon. member for York South says she has to kick her husband out of the house. That, in my personal opinion, is not the case.

Mr. Gibson: It is a misleading statement.

Mr. Cafik: I do not see why we should pursue an argument of that kind. There can be legitimate criticism of this clause without creating hypothetical situations which, in my view, do not apply. The Minister of Justice is surely in a position to express a better and more intelligent opinion, and I should like to know exactly what his views are in this respect so that I may be able to make an intelligent decision as a responsible Member of Parliament.

Mr. Turner (Ottawa-Carleton): The interpretation placed upon the clause by my hon. friend from Ontario is the interpretation which I have been given, and I think he is perfectly correct. There is nothing here which means that a wife of an unapprehended member of the FLQ who goes on living with her husband is guilty of an offence. The gravamen of the provision is that any assistance which is given must be with intent to prevent, hinder or interfere with his apprehension.

Mr. Lewis: I do not want to go around in circles—

Mr. Cafik: Then, don't.

Mr. Lewis: If the closed minds across the way would open a little, it might do some good.

Mr. Macdonald (Rosedale): Look who's talking!

Mr. Lewis: I do not disagree with the emphasis placed on the clause by the minister, but if a wife, for example,

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knows that her husband is being sought by the police yet continues to have him in the house and, maybe, lock the door at night or even during the day, with intent, if you like—I do not know just how you get into the wife's mind—to protect her husband, if she does these things knowing the police are looking for him, and the police finally get into the house and take the man prisoner, then in my submission she is subject to a charge under clause five.

Mr. Gibson: Wrong.

Mr. Lewis: I knew the father of the hon. member for Hamilton-Wentworth.

Mr. Gibson: The son is a politician. He has nothing to do with it.

Some hon. Members: Oh, oh.

The Deputy Chairman: The Chair would appreciate it if the hon. member for York South could continue his remarks.

Mr. Lewis: Perhaps one of his hon. friends could take the hon. member for Hamilton-Wentworth outside and pat him on the head. I was going to say something stronger, but I decided not to, so don't pull my tongue. It is obvious to me that the meaning of the clause is the one I have attributed to it. What it also means in terms of human relationships is that the wife in such a case would certainly believe that she was guilty of an infraction of this law if she let her husband into the house, and allowed him to stay in the house instead of locking him out where the police could get him. I appreciate that we cannot give a definite interpretation of a statute here in this chamber, particularly when it has to do with criminal offences. The final interpretation will be given by the courts. We may argue back and forth, but we can never be sure of the conclusion the court will reach. One knows of judgments that have gone in the direction opposite to the interpretation put on sections by lawyers or laymen.

• (2:20 p.m.)

The fact is that the presence of this section in the law, particularly when section 23 of the Criminal Code specifically excepts the spouse and no such exception is made here, obviously means that the spouse will be in a tough, an inhuman spot, in relation to his or her partner. It would be inhuman to do this unless one can be persuaded beyond any doubt that without such provision the law cannot do its job, and there is no evidence of that.

There are other relationships in a family. I am not suggesting that sons or daughters be excepted when the criminal law does not except them, even though they too would be in a tough spot. However, the relationship of man and wife has been recognized in the laws of every civilized nation for ages, as well as in the criminal law, and in my submission failure to recognize it in this clause has not been supported by argument.