

Supply—Solicitor General

A few minutes ago the Leader of the Opposition spoke about the Queen's prerogative, whatever that may be. I plead ignorance but I do say that if all the prisoners in our penitentiaries were let out a third of them would ask to be readmitted immediately because they have become so used to institutional care that they do not want to take a chance on life outside prison. They are the type who throw rocks through windows the first time they get into difficulty and are happy to return to prison. One of the films recently shown under the auspices of the minister dealt with this type of individual.

The parole board should provide as much supervision as possible for parolees. When it refuses supervision, as it did in the case I have cited, it fails in its job and is negligent in its duty.

Mr. Roxburgh: Mr. Chairman, I would like to deal with a matter about which I spoke a year ago, on February 9, 1966, to be exact, when I introduced a notice of motion dealing with recompense for innocent people wrongly accused. As is the fate with most notices of motion it was talked out. However, at the time I said that as long as I remained a member of parliament I would do my utmost to have injustice rectified in respect of this matter. I believe this must be done and I am speaking again today in an endeavour to correct what is a dreadful injustice.

• (5:50 p.m.)

It is absolutely unbelievable, and indeed deplorable, that our laws permit innocent people to be convicted who are later proven innocent and then released with no compensation of any kind. It is very hard to believe that innocent people can be kept in jail for weeks, months and, yes, even years, and then at the duration of their term, or at some period during their sentence, when they are proved to be completely innocent of the crime with which they were charged, be told by the courts of Canada: We are sorry for our mistake; you are now free to return to your old job if it is there or if your former employer will have you. You will have to work that much harder to try to make up your lost finances, your lost prestige, and your lost health, mental and otherwise, all because of our mistake—the mistake of the courts of Canada.

I ask, Mr. Chairman: Do laws which permit this type of thing to happen seem to belong to Canada? I am sure we all realize, despite the precautions taken by the public authorities,

that it is unavoidable that some innocent individual may unjustly become the object of criminal prosecution and thereby suffer loss. We realize that these things are bound to happen. However, the very existence of this risk implies that the public treasury should bear the responsibility for any such loss imposed by the machinery of the law.

Today, when our country is attempting to safeguard its citizens against losses caused by disease, disability, unemployment and many other misfortunes, it certainly goes without saying that the state should be liable for damages consequent upon wrongful accusation of a crime. It certainly would be manifestly inconsistent with the system of law if the state, which guarantees the individual against so many circumstances, should be excused from repairing the damage done by its own servants in the prosecution of wrongly accused persons. It is most unfair that a wrongly accused person should have to bear this loss. The prosecution should be brought at public risk and not at the risk of an innocent party.

It seems more reasonable that the loss should be borne by society than by the innocent person who has been accused. Apart from the matter of financial recompense, an award of compensation might do much toward rehabilitating the accused and freeing him from any suspicion which otherwise might rest upon him despite the acquittal or the dropping of the charges. It might also help in preventing the prosecution of innocent persons, because it is argued that provision for such liability compensation should lead to increased caution and in the long run to a decrease in the total damage.

There are many cases to which I might refer in order to illustrate my point. I shall mention, however, only one, the famous Canadian case of the kidnapping of John Labatt III some 30 years ago. The accused was sentenced to a term of 15 years. He was not the kidnapper. At the end of two years the man who actually did the kidnapping gave himself up. The kidnapper received a 12-year sentence. The original accused was given his freedom and went on his way to attempt to gain back what he had lost in society without having received any compensation from the government.

Many countries in the world award compensation to wrongly accused persons. In the period from 1886 to 1889 legislation of this kind was introduced in Norway, Sweden and Denmark. It was introduced in the United States of America in 1938. In addition, many