

seems to me that if, as has always been the case, insanity has been a defence in criminal matters and we can find a verdict of not guilty on the ground of insanity, that provision should be extended, and it should be equally possible to find a verdict of not guilty on the ground of psychopathic impulse or something in these sexual matters. I am sure the minister has been impressed, as have been all the rest of us who have to do with these matters, by the great increase in crimes of this kind, and by the brutality and the bestiality of them. In my own little local area it has come to the point where mothers, for example, are confining their children even in daylight hours, to the homes or the home grounds, if I may use that expression. Therefore I am not for a moment opposing in principle what the Minister of Justice is trying to do. I am all for it, but I am saying that if that right is given to the attorney general to consent, then it is of equal or greater importance that the right be given to the person accused who perhaps is up before the court for the second time. If you talk to them, as the hon. member for Lake Centre has done, I am sure you will find that there is this urge. In other words, I am trying to go to insanity, if you like. I think of the rule that was made in 1842 in the Macnaughton case. At that time we almost thought the world had gone mad.

The Minister of National Health and Welfare has, I am sure, if not an intimate knowledge, at least a better knowledge than have most of us of these things which we have now discovered are largely mental. It is not so long ago since an insane person was chained to a post and thrown raw fish to eat. We have learned a good deal since then, and we have these institutions. It seems to me that sex perverts, or people who are born that way, should have this right. As I understand the matter, there is the homosexual who is just that way anyway. But the pervert, if I understand the definition correctly, is a person who was born properly, who had the natural instincts but who, because of his own fault perhaps, went in that other direction.

I acted for attorneys general for fourteen years in the province from which I come. They are all grand people and all of that, but it seems to me that the accused man should have the right to go out and bring in evidence as to what his mentality is in sexual matters. I think it is a mistake to confine our bill to the consent of an attorney general—who does what? He consults persons who are within his employment. He reads the evidence of the offence. It seems to me that it is rather too much to put up to one man, who is the

[Mr. Smith (Calgary West).]

deputy attorney general in practically all cases, to say whether or not he, an individual, consents to this being done. I think it should be open to both sides to bring in evidence of that kind.

I am not trying to speak so much from personal experience, but I know of people who have been charged with murder, found guilty and hanged, and who, it occurred to me, were under an impulse, an urge or something of that kind which they were quite unable to resist. They were not mentally weak as you would see if you were in ordinary conversation with them. I am glad the minister is having this section stand. Particularly that feature of it should be given further consideration.

May I go a step further along the line the hon. member for Lake Centre discussed the other day? I think the doctors in the house—and I can see two or three of them—will probably agree that we have not gone far enough in psychiatry to delimit those sex impulses which we now know, through practical experience, some people have. If it were possible that curative measures would restore those persons to health as normal human beings, then I would be all in favour of that. But I doubt, as the minister has said, if the evidence today goes far enough to establish that as a fact.

I am anxious that the minister follow up what he said and let this matter stand. We know of no greater problem in crime than this one. Since we have been here, I read about some crime on a lake shore with regard to a man and his wife, where a woman was found in water. No solution has yet been found. It is obviously one of those sex crimes about which we understand so little.

Let us place first the curative idea. On the other hand, let us not leave it to any individual to say whether or not psychiatrists may be called to prove a given state of mind. It will be remembered, Mr. Chairman, that in our criminal courts today a man can be found not guilty on the ground of insanity, without a single psychiatrist being called. I myself have proved that. We all are beginning to think we need expert evidence on that, but we do not. We can get the general opinion of a jury as to whether a person is insane or not. I am thinking more of the curative aspect and of the fairness of the procedure of permitting the accused person to call such evidence, without the consent of the attorney general in a given province.

Mr. ILSLEY: That was the intention of the section.

Mr. SMITH (Calgary West): I agree. I was not being critical at all.