

### *Criminal Code*

Although it is recognized that s.92(14) of the BNA Act gives the provinces a source of authority that enables them to blend with exercises of federal power when the latter is used to invest provincially-established courts with jurisdiction in matters within exclusive federal competence, federal overriding authority is always in reserve. Thus, although the Parliament of Canada has designated the provincial courts to administer criminal law, they have to do so according to procedures which under s. 91(27) of the BNA Act, are within exclusive federal competence.

There is one exception—the administration of justice.

Then there is the famous Jones case which went to the Supreme Court of Canada. The question was whether language is a matter of criminal law or a matter of the administration of justice. I say it is a very fine point.

We often hear media commentators say something to the effect that they are now going to introduce Senator "X", a great expert in constitutional law. The only experts that I ever knew in constitutional law sit in the Supreme Court of Canada. They can weigh and interpret the law to suit the social-political situation as it exists. All courts have done that. Maybe it is one of the things that has to be done. We have only to look at the tremendous decisions made in the United States in the last ten years to see how very political they are.

In many cases jurisdictions overlap, and I have dealt with this before. For instance, there is a federal Minister of Agriculture who has certain duties and a provincial minister of agriculture who has certain duties, and the duties overlap. The administration of justice overlaps, and trade and commerce overlaps—trade within a province is a provincial right, and trade outside a province is a federal right, and there is often a conflict. I should like to bring to your attention, Mr. Speaker, the case of *Nicola Di Iorio and Gérard Fontaine*, appellants; and *The Warden of the Common Jail of the City of Montreal*, respondent; and *Rhéal Brunet, et al. Mis en cause*; and *The Attorney General for Canada, The Attorney General for Quebec, The Attorney General for Ontario, The Attorney General for Alberta, The Attorney General for British Columbia and The Attorney General for New Brunswick*, intervenors, which is reported at page 152 of Canada Supreme Court Reports, Part 1, 1978, Vol. 1. There seems to be a conflict between what Justice Martland said in this case and what other judges said in the Jones case.

I want to say here, Mr. Speaker, that I am glad the government made the amendments to this bill. I do not know where we would stand today if it had not. It was a pretty brash kind of thing if you said you were going to take it like the cod liver oil treatment, but at least members of the government were flexible and they gave in. They knew that if they were to get a bill through that would work in Canada, there had to be some sort of flexibility. Once again I congratulate them.

I want to come back to my earlier point. The hon. member for Palliser (Mr. Schumacher) is a great friend of mine. I never thought I would read a speech of his and find fault with it. I thought I taught him well when he was a student, but it seems I have strayed in my ways. Let me give a little bit of history, Mr. Speaker. In 1968 it was suggested that I should run in the new Calgary North constituency, the university area, and that somebody else should run in Bow River. My

[Mr. Woolliams.]

friend got the riding of Bow River. He inherited Bow River with every poll that was won for the Tory party, so he started off pretty well.

**Mr. Rodriguez:** The silver spoon.

**Mr. Woolliams:** I would have said golden.

When the hon. member for Palliser spoke in the debate on Bill C-42 on May 4 this year he said, as reported at page 5153 of *Hansard*:

—from the official opposition because the spokesman for that party said he wished to see the bill amended in such a way that the provision would not be imposed in any province without some sort of positive action being taken on the part of that province.

The experience we have had with amendments is another matter which bears consideration.

He had better attend a committee and find out if that is correct. He continued:

I, for one, do not feel the hon. member's suggestion will receive very real consideration from the Minister of Justice because the Conservatives have 'cried wolf' before in this regard.

He implied that we had cried wolf and lost. I know that I have moved amendments that probably should have been passed. I have moved amendments that I know I probably should have won. I moved amendment on the gun control bill, and Bill C-83 died because of our amendments. The government brought in a new bill and it went through. Then the hon. member for Palliser goes on to say as recorded in *Hansard* at page 5154:

● (1242)

My understanding was that we did not have to worry about that and that the minister would see what the situation was. Perhaps he is correct in saying that he should be able to rely on the attorney general for Alberta. I have a different opinion, and if I were the hon. member for Calgary North (Mr. Woolliams) I would not want to support the proclamation of this particular bill if I had to rely on the attorney general of the province of Alberta, because sometimes I think he is completely out of touch with what he is doing.

Then he goes on to challenge him that he had broken his promise for which the Minister of Justice took him to task.

I will say this once again about voting. Once or twice in my lifetime I have voted against my party. I remember once, and Stanley will like this,—I never knew whether Mr. Stanfield did, and excuse me for calling you by name—but it was a question concerning the minimum wage. I forget the amount involved. I know at that time we were trying to cut back, but it seemed to me it was pretty small potatoes, that we had to raise the minimum wage, and I voted to increase it. Looking back, I might have been wrong.

The point I want to make, and which I want to re-emphasize is that it is easy now for a member to go to western Canada, especially if he has written all these letters and said in them, "Do you want a French trial in Acme?"—or somewhere else,—the answer will be no. If I wrote to Quebec and in my letter asked, "Do you want to have an English trial in Quebec?" Naturally it will be interpreted that there will be no French at all, we will have English. But if the polls report 88 per cent, his polls are the greatest polls. If we had a Gallup