

Legal Proceedings

in my own mind as to the complete ramifications of the proposal advanced today. Perhaps other hon. members can offer additional insights and material on the important question we are examining.

One thing, however, is clear to me. It is that the hon. member for Calgary North deserves the thanks and congratulations of the House for his excellent intervention. You may be assured, Mr. Speaker, that the Solicitor General—and I can say this on his behalf as well as my own in my capacity as his parliamentary secretary—intend to examine the issues he raises with careful attention.

Mr. Stuart Leggatt (New Westminster): Mr. Speaker, I should like to participate briefly in this debate and to congratulate the hon. member for Calgary North (Mr. Woolliams) for a well reasoned and effective contribution to the criminal law of Canada. I listened with some impatience to my hon. friend the Parliamentary Secretary to the Solicitor General (Mr. Young), however. One of the things he said was that there are really only three people involved in this particular situation. The day that we in this House cannot take the time to make sure that the law is applied in accordance with the well tried principles of justice and common law is the day we should not waste our time here. There are three people involved and those people deserve to have the law applied in accordance with the proper principles.

The Criminal Code, which we amended in the unfortunate package that we bought a few years ago in this House, has resulted in a very severe injustice. It is all very well for the parliamentary secretary to say we are taking this question under study. While we are doing that people are rotting in jail. It is nice and easy for us to sit in our comfortable offices studying matters, but people are sitting in jail as a direct result of this anachronism, this violation of the bill of rights.

● (1742)

I also congratulate the hon. member for Calgary North for raising in this House again a most important principle basically, the supremacy of parliament. When parliament passed a federal bill of rights, it was not a direction to the courts to do everything in their power they could to avoid the consequences of that bill of rights. Many of us who have had some experience in the law are continually disappointed by the judges of the Supreme Court of Canada when they come up against the bill of rights and try to apply it to specific statute law.

There has been a quick reference made to the *Drybones* case. I recall very well the *Lavelle Bedard* case in which a native lady was denied her rights on the sole ground she was a female. The Canadian Bill of Rights purported to protect that situation. She received no protection from the courts of the land.

The principle which the hon. member for Calgary North is attempting to apply to the Criminal Code and, which is so fundamental and so vital is this: When a person commits an offence the law that applies on the date of that offence is the law. Only totalitarian regimes attempt to correct and change

[Mr. Young.]

the law and then apply it retroactively; only totalitarian regimes do that, not decent, civilized societies. Surely this is one of the things that we have great respect for in this country. We do not attempt to create offences that occurred in the past by changing the law in an umbrella or catch-all fashion, as we unfortunately did in this place when the insertion was made of section 27(2) in the Canadian Criminal Code.

That section which went into the code at that time, the hon. member for Calgary North and I had differences on. It concerned the ultimate penalty with regard to murder. But we are in some agreement in terms of what the alternatives have been. The 25-year sentence, for example, now that we examine it in operation, has got to change. We are placing people in prisons with 25-year sentences with no option whatsoever to see the light of day. They have three alternatives. The first is to commit suicide; many do or have tried to. The second is to attempt to escape and perhaps inflict harm upon the people who are guarding them within the prison system. Lastly, prisoners can serve their sentence and thereby suffer the kind of brain damage they are bound to have developed by the time of their release after 25 years. Many of these people are living in appalling conditions in solitary confinement.

The hon. member for Calgary North and I will probably never agree on the ultimate penalty, but certainly the package that was bought at that time was a bad bargain. It was a bad bargain for the criminal justice system, and it was a bad bargain for providing any kind of safety measure to the public. The 25-year sentence is a horrendous change to our criminal law. It has disrupted the prison system of Canada. Parliamentarians will have seriously to look once more at the sentencing procedure under the murder provisions of the Criminal Code.

I congratulate the hon. member for raising this issue; it is a fundamental and important one. It may also serve to sensitize us to the Canadian Bill of Rights and to possibly having a look at the way in which we can see that the courts take that law seriously, instead of seeing them continually attempt to interpret their way around the plain meaning of the bill, which the right hon. member for Prince Albert (Mr. Diefenbaker) originally brought forward in this House.

I hope my friend the parliamentary secretary will look seriously at this change. I hope that it will not be a case of saying, "We will take it back to our officials and we will see you next year." This is a matter which the Standing Committee on Justice and Legal Affairs would wish to speed through quite quickly in order to see this obvious injustice in the code removed.

● (1752)

[Translation]

Mr. Gilles Marceau (Lapointe): Mr. Speaker, I have always had much esteem and consideration for my colleague from Calgary North (Mr. Woolliams) and I am always quite pleased to note that he has the necessary readiness of mind and courage to offer hon. members ideas which deserve to be taken into account. Mr. Speaker, I think that in such discussions we