

There are one or two, however, that raise serious doubt in my mind and I would like to present those to the House in this brief address. But first it must be said that the changes recognize that in Canada we have had a period of inflation. If one looks at clauses 23, 28, 29, 40 and 41 one finds that the dividing line between serious offences involving theft, and non-serious ones, which used to be \$50, has now been raised to \$200. So under "just society" inflation you have to steal four times as much before you get yourself into serious difficulty with the law.

Clause 11 recognizes, as the minister has pointed out, that we do live in the high-rise apartment age and if you are going to stand outside on a Saturday night, or any other night for that matter, hollering and making the night ring with your noise, you will pay the penalty for it. In this case the law is simply brought up to date to recognize that the dwellinghouse is not what it used to be.

My favourite, from the standpoint of change that causes a second glance, is the one in which you cannot report your own death. This has a Mark Twain element and this is why it appeals to me. This is made an offence, and if you commit it you are in difficulty with the law. But if you kill yourself, or attempt to kill yourself but do not succeed, you are not in difficulty with the law. In other words, if I should yell out, "I am going to kill myself by slashing my throat" and I slash my throat but do not kill myself, I can end up before a magistrate for making a false report.

Mr. Lang: Maybe you should carry through for a change.

Mr. McCleave: The moral of that is that if you do something in the just society, for heaven's sake be quiet about it. The other change that appeals to the whimsical in me is clause 14 which removes certain distinctions by which some people could live off the avails of prostitution and other people could not. The distinction that is being removed means that if a woman lives off the avails of male prostitution she can now be brought into court and dealt with as pitilessly as if a male had been brought into court for living off the avails of female prostitutes, a distinction that perhaps the recent Bird royal commission had not thought about. Nevertheless, an advantage that had been given to the female criminal has been removed. Several hon. members around me think this is a noble victory for man's liberation. I cannot say I disagree with this provision but there are some measures that I think that will receive our support.

• (2040)

I think the various provisions in this bill which would eliminate whipping as a punishment are correct. This was the conclusion reached by the committee which dealt with this matter almost two decades ago. When I spoke on the same matter in this House about ten years ago, after examining the case in some detail, I felt that it was not a useful measure and should not be part of the law. The hon. member for Egmont (Mr. MacDonald), who has been promoting the abolition of whipping since 1967, will no doubt take part in this debate to approve the steps taken by the government. I see no tangible benefits that can be

derived from the retention of such punishment, so I welcome its abolition.

Putting the summer joyrider in a boat on almost the same footing as the man who mixes alcohol and driving is a most welcome provision. The changes that would enable the court to deprive the driver of his off-work privileges but enable him to drive to earn his living make sense. I presume the intermittent serving of sentences means serving them on weekends, and this makes sense. It also makes sense to put women in the same position as men with regard to jury duty.

The court of appeal provisions regarding contempt, together with what I gather is an element of parole to be introduced into the courts which mete out punishment also make sense and should have been enacted earlier. Perhaps this will be a good step toward a different attitude to parole. I have often felt that the present system tends to downgrade the function of the judge who metes out punishment and must consider whether such punishment is for the purpose of protecting society. So there is an element of progress in this proposal. I support it and I hope it is a forerunner of further improved measures.

There are some issues on which I have doubts, however, Mr. Speaker. At first glance I thought the elimination of vagrancy as an offence was a great step forward. To arrest a person simply on the grounds of his or her being poor and without means of support was a degradation by society of that person and of itself. I thought it was something that could, and I am sure has been, used by the police to take a person out of circulation even without a crime being committed. The minister and I are on the same side on this one and it would take very compelling evidence that vagrancy is a weapon that can be properly used by the police to make me consider changing my mind. By "very compelling evidence" I do not mean just expediency, where vagrancy is useful in rounding up people in order to find out who committed a crime! I would not agree with that.

Doubts are also raised by clause 62 which deals with a stay of summary conviction. I wonder whether this could not be used as a substitute for the old vagrancy section in the Criminal Code and whether it would not enable police to detain people and eventually obtain a stay of proceedings against them. Such a stay now exists for indictable offences, but this measure would extend to summary convictions. I give the minister notice that I shall ask a considerable number of questions in order to determine how this power will be exercised.

I am told by critics outside the House that in British Columbia the present method of stay of indictable proceedings had led to a great number of prejudicial actions by the Crown, that it facilitates arbitrary arrests, jailing and fingerprinting or even suppression of public disclosure and nothing ever comes out in court. Eventually the accused is freed, but in the meantime he has undergone an unpleasant experience. If I thought clause 62 was a substitution for the elimination of vagrancy from the code, I would certainly want to make a different type of speech on third reading than I am making now. As it is, I indicate to the minister that he must be prepared to defend this clause with all his resources when it comes to committee.