

Criminal Code

Mr. Diefenbaker: What help would it be for a law to be on the statute books of Saskatchewan when the pollution takes place in Alberta?

Mr. Low: Does the hon. member know that pollution takes place in Alberta? He has not the slightest idea, nor has anyone else.

Mr. Diefenbaker: That indicates the type of help we are getting from Alberta.

Mr. Low: I just want to deal with the interjection. There are a good many authorities today who consider that the pollution does not result from anything that is being poured into the water in Alberta, any effluent from a factory or plant, but that it results from escaping gas from certain gas wells along the border between Alberta and Saskatchewan.

The Deputy Chairman: May I suggest that we are discussing the application of the Criminal Code to all situations, and not one particular situation in Canada.

Mr. Garson: If I may cover one or two other points that have been raised by the hon. member, Mr. Chairman, I would not want the record to indicate there has been, upon the part of any government concerned, any neglect as has been alleged; for such a charge of neglect could not be founded on facts. Surely I do not need to make this point clear to the hon. member for Prince Albert, because he is too good a criminal lawyer not to know it. You cannot prosecute anyone for causing pollution until you are able to prove that the accused person is introducing the material which causes the pollution into the river.

As I understand it, my colleague the Minister of National Health and Welfare is supplying the best technical personnel he has available for the purpose of investigating and establishing, if that be the fact, that the conditions in the Saskatchewan river are the result of effluent which is being introduced into the Saskatchewan river in Alberta. No matter what law he was invoking—whether it was the public health act of either of these two provinces or these sections of the Canadian Criminal Code—I would think if the hon. member for Prince Albert were crown prosecutor he would look rather silly if he rushed into court and discovered when he got there that he did not have the evidence to make his charges stick.

I suggest to him that the sensible and proper approach to this matter is that which has been taken by the Minister of National Health and Welfare, in establishing these facts first. I would suggest to the hon. member for Prince Albert, who has had such a

long experience as a criminal lawyer, that the wise prosecutor is one who finds out what his facts are before he considers the charge he is going to lay. If he does not know what his facts are and lays the wrong charge, it may be that the accused will get off even although he is guilty.

Mr. Diefenbaker: You found that out by experience with the combines act. It is experience from which you are speaking.

Mr. Garson: Once the facts were established, in the present case I would be very much surprised indeed if the parties concerned would not be prepared, upon the same kind of evidence that would produce a conviction in the event of a prosecution, voluntarily to co-operate in removing this nuisance without any of the difficulty, commotion and uproar we have heard from the hon. member for Prince Albert.

He says or implies that we are derelict in some way in this matter. I suggest to him that our job in this parliament is to enact the criminal law. I suggest to him that if he reads section 92 of the British North America Act, if I remember correctly subsection 14, he will see that the administration of justice is entirely in the hands of the provinces. The task of taking whatever legal steps may be necessary in Saskatchewan or Alberta is the responsibility of the attorneys general of these provinces. In fairness I must say that I would be the last to blame these attorneys general—I am amazed that a man with my hon. friend's experience would blame them—for not rushing into court with any kind of prosecution until they know what the facts are upon which they have to rely to secure a conviction.

My information, which is up to date until the last 24 hours or so, is that it has not been established that the effluent of this concern or that concern or the next concern is the cause of the condition in the Saskatchewan river. I am not suggesting that it is escaping gas or anything of that sort. All I am suggesting is that the cause of the pollution in the Saskatchewan river has not been established. I am sure the hon. member for Prince Albert, as a lawyer, will agree that you cannot—thank goodness—in this country convict people upon hypotheses or guesses; you have to prove a case against them and here you have to show that the effluent being discharged into the river is the cause of the trouble which is being experienced in Prince Albert.

I believe we have gone about this thing in the right way. We are trying to establish these necessary facts. When they are established I think we will be able to get the