

Criminal Code

Amendment No. 2 is faulty in a similar way in that it constitutes a reasoned amendment or subjects to some condition discussion of clause 7 of Bill C-150.

The reasons which justified the inadmissibility of amendment No. 1 also apply to amendment No. 2.

[English]

We will now proceed to amendments numbered 3 and 4 which, in the humble view of the Chair, are acceptable. It is suggested, however, that both might be considered at the same time and if eventually there is a negative vote with respect to amendment No. 3, this would have the effect of being a negative vote with respect to amendment No. 4, which would then not be put to the house.

May we also now turn to amendment No. 5 about which the Chair has some doubts and about which hon. members may wish to advise the Chair.

Mr. Knowles (Winnipeg North Centre): Mr. Speaker—

Mr. Speaker: Order, please. For the assistance of the hon. member, I might say that the difficulty facing the Chair relates to the fact the amendment appears to go beyond the provisions of the bill. That is why I was anxious to have the views of hon. members before deciding whether the amendment ought to be put to the house.

Mr. Stanley Knowles (Winnipeg North Centre): I thank you, sir, for indicating the area in which you question this amendment. I suspected that was where Your Honour had some doubts but, with respect, I should like to argue that the amendment deals with the same subject matter dealt with in clause 7 of the bill. I do not want to hurt a case we may present later, so I will refrain from identifying exactly what I have in mind. I know that later an amendment will be introduced from this corner of the house seeking to write into this bill legislation about a matter that has not been mentioned in this bill at all. I can see we shall be on thin ice in trying to argue that that is within the four corners of Bill C-150. I merely mention that because that strengthens our case with respect to amendment No. 5. Clause 7 of Bill C-150 deals with various sexual relationships, indecent and otherwise, and makes certain provisions and changes in the law in that area as it now is. The amendment proposed by my colleague from Broadview stays within that area. It redefines the law in one or two instances and

[Mr. Speaker.]

makes changes with respect to penalties and the kinds of charges that can be laid. It deals with matters of summary conviction and with indictable offences.

Although your doubts are understandable, Mr. Speaker, I think it is possible to set them aside. In other words, it should be possible to convince Your Honour that the amendment proposed by my friend for Broadview is not foreign to the subject matter of clause 7 of Bill C-150. It is on that basis that I think Your Honour ought to allow it.

Hon. John N. Turner (Minister of Justice): Mr. Speaker, I, too, can understand your doubts and wish to encourage them.

Mr. Gilbert: Why?

Mr. Turner (Ottawa-Carleton): Because I suggest, sir, that the amendment introduced by the hon. member goes beyond the scope of the clause to which it relates. It is, therefore, inadmissible and ought to be struck. The purpose of the amendment introduced as No. 5, Mr. Speaker, is to make offences under section 147 which relates to buggery or bestiality, section 148 which relates to indecent assault on a male and section 149 which relates to acts of gross indecency punishable on indictment or by way of summary conviction. At present these three offences are punishable on indictment only and carry specified penalties. An offence under section 147 carries a maximum penalty of imprisonment of 14 years; an offence under section 148 carries a penalty of maximum imprisonment for 10 years and an offence under section 149 carries maximum imprisonment of 5 years. In other words, what the hon. member is attempting to do is to amend these sections so as to give the Crown an alternative way of proceeding. It may proceed either by way of indictment or by way of summary conviction.

● (3:50 p.m.)

The hon. member's amendment does not go to the substance of the offences. It specifies merely the procedure under which the Crown can proceed with regard to offences mentioned in these three related sections. The clause to which the amendment relates, clause 7, introduces new section 149A. New section 149A provides that two of the original sections, 147 and 149, shall not apply to any act committed in private between a husband or his wife or any two persons each of whom is 21 years or more of age, both of whom consent to the commission. What the clause in the bill strives to do is exempt from the