

Right Hon. Mr. MEIGHEN: It would. I think this is a very dangerous clause.

Hon. Mr. DANDURAND: I think it goes far beyond what seems on the surface to be its effect. As the honourable gentleman from Winnipeg (Hon. Mr. McMeans) has said, it would perhaps be better to wrestle with the broad problem rather than try to punish adultery in this way. I would direct attention to the difficulty that if there are no children in the home adultery does not constitute an offence.

Hon. Mr. McMEANS: I may say, Mr. Chairman, that there have been within my own experience several cases of people living together as man and wife, having children of their own, and being looked upon in the neighbourhood in which they lived as married people. I can call to mind several cases of Englishmen who, finding it impossible to live with their wives, left England and came to this country with other women, with whom they lived as respectable married people. I remember on one occasion drawing a will for a man from England. One day he brought me a summons which had been served upon him, demanding support for his wife in England. I then learned for the first time that the woman with whom he had been living, and who had borne him children, was not his wife. I had to tell him that his will was no good. He had no idea in the world of committing any offence.

Very often amendments are made to the Criminal Code without any consideration being given to the effect they will have. I quite admit that it would be very improper for a man to live in a house with an immoral woman if there was a child there; but this section does much more than to deal with such a case. We should be very careful in amending the criminal law. Some countries have gone to great lengths. In several States of the Union adultery is punishable by imprisonment for two years. Fortunately, that has never been the law in Canada nor in England. I think this clause should be struck out.

Hon. Mr. DANDURAND: The clause goes much further. It says:

Every person who indulges in habitual drunkenness or any other form of vice, thereby endangering the morals of such child or rendering the home of such child an unfit place for such child to be in, shall be guilty of an offence and liable, upon summary conviction, to a fine not exceeding five hundred dollars, or to imprisonment.

53721—32½

Of course drunkenness is a dreadful vice, or disease, but I wonder whether it is fitting that it should be punished under the wording of this clause?

Hon. Mr. McMEANS: I quite agree with the honourable gentleman. The child can always be removed by the Children's Aid Society.

I would move that subsection 3 be struck out.

Hon. Mr. ROBINSON: Leave the old clause.

Right Hon. Mr. MEIGHEN: The old clause is amended by subsection 2. I do not like striking out a clause of this kind, but I really do not know how one can defend a clause setting up an irrebuttable presumption. The honourable senator opposite (Hon. Mr. Dandurand) calls attention to a case that is insuperable. It would be a terrible thing to legislate in this way. The father and mother would virtually have to abandon their offspring.

Furthermore, subsection 4 astonishes me, though I do not know that it could do any harm.

Then again, in subsection 6, which otherwise is a very good clause, there is surely an error. It says:

No prosecution shall be instituted under subsections two, three, four or five of this section—

and so forth. No prosecution could be instituted under any of those subsections except subsection 2. How could a prosecution be instituted under subsections 3, 4 or 5? It is absurd. When we come to subsection 6 I shall move to strike out those words.

Hon. Mr. DANDURAND: Perhaps it would be as well to eliminate section 3, and next year have the Department of Justice bring in a clause that would be—

Right Hon. Mr. MEIGHEN: Better thought out.

Hon. Mr. ROBINSON: Strike out the whole of section 3.

Right Hon. Mr. MEIGHEN: Subsection 3 of section 3.

Hon. Mr. BLACK: The whole of section 3.

Right Hon. Mr. MEIGHEN: Subsection 3 of section 3.

Hon. Mr. DANDURAND: But what about subsection 2?