

Criminal Code

of this country for at least that length of time and they probably go back further than that.

Mr. Ellis: Can the minister tell us—

Mr. Garson: My assistant tells me the law in that connection goes back to 1892.

Mr. Ellis: —if there have been any prosecutions or convictions under any of these three sections, 199, 200 and 201, since the law has been in effect in Canada.

Mr. Garson: I do not suppose my hon. friend wishes to detain the committee long enough for me to recite these cases, but if he will look at Tremear's Criminal Code he will find various cases listed there where these sections have been invoked, with full particulars in each case.

Clause agreed to.

On clause 163—*Offensive volatile substance.*

Mr. Diefenbaker: Mr. Chairman, I am not going to apologize for bringing up a matter which has been up before this house on a number of occasions lately, for it is one which I believe deserves the immediate attention of this house. I am referring to the situation created in consequence of the pollution of the waters of the North Saskatchewan river by what is generally believed to be the actions of Canadian Celanese corporation in dumping certain products into the river. On a number of occasions this matter has been before the house—

Mr. Garson: Mr. Chairman, might I rise on a point of order?

Mr. Diefenbaker: Oh, yes.

Mr. Garson: I am sure we are all most sympathetic with my hon. friend in his concern about the condition of the North Saskatchewan river. However, I believe the rule of order is that when we are discussing in committee the clauses of a bill, remarks must be confined to the clause which is before the committee.

Mr. Diefenbaker: That is what I am going to do.

Mr. Garson: I would suggest that there is no apparent connection or relevancy between the condition of the North Saskatchewan river and the clause we are discussing at the present time.

Mr. Ferguson: Premature opinion.

Mr. Diefenbaker: It will not take long, Mr. Chairman, to bring these remarks into direct line with this particular clause and also one [Mr. Garson.]

which I am asking leave to discuss at the same time, namely clause 165. Clause 163 reads as follows:

Every one other than a peace officer engaged in the discharge of his duty who has in his possession in a public place or who deposits, throws or injects or causes to be deposited, thrown or injected in, into or near any place,

(a) an offensive volatile substance that is likely to alarm, inconvenience, discommode or cause discomfort to any person or to cause damage to property, . . . is guilty of an offence . . .

That is the first portion of the clause in question. Then the other general clause with reference to nuisances is clause 165, which reads as follows:

(1) Every one who commits a common nuisance and thereby

(a) endangers the lives, safety or health of the public . . . is guilty of an indictable offence—

I am reading only the pertinent subsection. —and is liable to imprisonment for two years.

(2) For the purposes of this section, every one commits a common nuisance who does an unlawful act or fails to discharge a legal duty and thereby

(a) endangers the lives, safety, health, property or comfort of the public, . . .

Those are the only sections of the Criminal Code, as it now stands, which in any way can be enlarged, expanded or amended to cover the situation that prevails today along the North Saskatchewan river.

My preliminary words are directed to asking the minister to permit amendments to these sections to cover the situation that has resulted from the contamination of the Saskatchewan river, as well as the contaminations that are taking place by pollution elsewhere in this country, and in order to protect human beings against the continuance of a situation that is detrimental to their comfort if not to their health.

The government has expressed every desire to be of assistance in this matter. I therefore do not expect that my hon. friend will raise questions of order on a matter that is particularly pertinent to the section, for I am sure he would like to have any assistance that can be given in order to meet the problem which in their anxiety various ministers of the government have stated they would like to meet but which as yet, after 86 days, they have not met.

Someone might say that it is a civil matter, and that it could be met by injunction. That is not in any way an answer to the question, because the problem arises in Alberta but the effect is in Saskatchewan. There are several intervening cities and urban municipalities, a fact which denies that direct causal conclusion which is necessary before an injunction can be secured.