

*Criminal Code*

applies to human beings except in respect of buggery. The definition of buggery is the same as that in respect of sodomy, that is carnal copulation against nature by human beings. This refers to buggery or bestiality. The section covers bestiality but this is exempt because it suggests that Section 147 dealing with bestiality does not apply to any act committed between a husband and wife or two individuals of age in private.

During my experience as a trial lawyer I remember a case involving a husband who insisted that his wife have sexual relations with an animal. I have become aware of this kind of environment in this nation. I am aware of cases of bestiality involving one adult and an animal. Section 147 which refers to bestiality will not apply to any act committed by a husband and wife in privacy. It will not apply to acts committed by two adults over 21, providing there is consent.

Let me suggest to the minister that the professor of a leading university in this country would not appear before the Committee on Justice and Legal Affairs to utter complete nonsense. This professor appeared with a background of experience and knowledge. I asked for this witness following some argument as to whether the committee should call witnesses. This witness, with his knowledge of criminal jurisprudence, said clearly and squarely that this clause would legalize sexual relations in some form or another with an animal providing it was committed by two consenting adults over 21. In my opinion that is absolutely wrong.

● (4:20 p.m.)

I ask the minister to reconsider his position in this respect. I know that he has legal advisers in the Department of Justice, but they can be wrong. I say this with no disrespect to the officers of the Department of Justice, because at one time there were more lawyers in the department from the university from which I graduated than from any other university in Canada. Therefore, naturally I have respect for them and their opinions. But the officers of the Department of Justice are not infallible. In how many cases throughout this land have they said one thing and the courts have said they are wrong? They are only giving legal opinions. Just because the Department of Justice has given its opinion, it does not mean that is right. The officers of the department have no divine right to be correct in their interpretation of the law.

I have had confrontations with the Department of Justice. I do not want to deal with those, but as an illustration I will mention one case. In the case to which I refer, the judge happened to agree with me. The Department of Justice laid a charge against the breweries under the Combines Investigation Act. The Department of Justice said they had a case. When they got to court, what kind of case did they have? In this instance, the provinces set the price of beer at 10 cents or 20 cents a glass. The case of the department was laughed right out of court. Mr. Robinette, Q.C. was on that case, as my hon. friend knows.

Therefore, because the Department of Justice tells the minister there is nothing wrong with this clause, I do not stand in awe of their opinion; and multiplicity of the same opinion is still the same opinion. I ask the minister to consider this question in the light of what the professor said and in the light of my argument. I want to summarize what I have said. Section 147 deals with bestiality. Proposed section 149A provides:

Sections 147 and 149 do not apply to any act committed in private between

- (a) a husband and his wife, or
- (b) any two persons, each of whom is twenty-one years or more of age, both of whom consent to the commission of the act.

My hon. friend has forgotten one thing. He thinks that the act we are talking about is a pantomime between the people concerned. The section does not say that. The act could be conducted, not with a third person but with a third ingredient, namely, an animal—two people twenty-one years of age, and an animal. It is very important that the minister understands this. This is my understanding of the act. I think I have made my point, Mr. Speaker and I shall not say any more as far as that matter is concerned.

I hope the minister will take notice of the argument which I have been able to present in the House of Commons and was not able to present in the same fashion in the committee. I have been able to weigh what was said in the committee, because we have a record of the proceedings of the committee. This is why we have committees. It is no new, great thing to have a standing committee study a bill clause by clause; we have been doing this ever since parliament was created after confederation. The only thing we have done away with is clause by clause study of a bill in committee of the whole house.