

*Public Order Act, 1970*

[Translation]

—any instrument for house-breaking—

[English]

The French version makes the meaning clear. Both versions mean the same thing.

[Translation]

—it is therefore to be regretted that we were not more specific in that clause.

Clause 4 agreed to.

[English]

**The Deputy Chairman:** Shall clause 4 carry?

**Some hon. Members:** Agreed.

Clause agreed to.

On clause 5—*Idem*

**Mr. Lewis:** May I ask the minister a question?

**The Deputy Chairman:** I regret, but the Chair has recognized the hon. member for Abitibi.

[Translation]

**Mr. Laprise:** Mr. Chairman, I wish to move an amendment to clause 5 because, in my opinion, it is not stringent enough to cope with the present situation.

Clause 5 reads as follows:

—is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

I move that clause 5 become clause 5 (a) and that it be followed by clause 5(b) which would read thus:

A person who, knowing or having reasonable cause to believe that another or other persons are guilty of an offence under clause 4(a), gives that other person any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that person for that offence is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

**The Deputy Chairman:** The hon. member for Abitibi moved that clause 5 should become clause 5A with the addition of clause 5B reading as follows:

5B. A person who, knowing or having reasonable cause to believe that another person or other persons are guilty of an offence under section 4A of this Act, gives that other person any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that person for that offence is guilty of an indictable offence and liable to imprisonment for a term not exceeding 14 years.

[English]

**Mr. Turner (Ottawa-Carleton):** Mr. Chairman, as I understand it, the purpose of the amendment is to make it an offence for a person who knowingly gives another person—I hope I am translating the amendment correctly—any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that person for an offence under what is now clause 5 but which would have become clause 4(b) under the amendment earlier proposed by the hon. member and which was defeated in committee.

[Mr. De Bané.]

I want to submit to the hon. member and to the committee that there is no need for this amendment because a person described in the amendment would be an accessory after the fact, pursuant to the provisions of section 23 of the Criminal Code. I want to read that section.

**Mr. Baldwin:** You are on clause 5?

**Mr. Turner (Ottawa-Carleton):** Yes, the amendment to clause 5 proposed by the hon. member for Abitibi.

**Mr. Baldwin:** I thought you said clause 4.

**Mr. Turner (Ottawa-Carleton):** The earlier amendment, had it been passed, would have been clause 4(b), and this one is related to it.

What the hon. member is trying to do is to provide, in effect, an accessory after the fact provision which, I submit, is covered by section 23 of the Criminal Code which reads as follows:

23(1) An accessory after the fact to an offence is one who, knowing that a person has been a party to the offence, receives, comforts or assists him for the purpose of enabling him to escape.

Take that in conjunction with section 406(b) of the Criminal Code which provides that:

everyone who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, upon conviction, an accused is liable to imprisonment for fourteen years or less, is guilty of an indictable offence and is liable to imprisonment for a term that is one-half of the longest term to which a person who is guilty of that offence is liable;

Hon. members should take into consideration as well section 119 of the Code which provides that:

Every one who wilfully attempts in any manner to obstruct, pervert or defeat the course of justice is guilty of an indictable offence and is liable to imprisonment for two years.

Taking these provisions together, I submit that the bill is not improved by the amendment proposed by the hon. member, and for that reason I submit to the committee the amendment should be rejected.

**Mr. Baldwin:** I would like to make a couple of comments and ask the minister a question to which he might like to reply. He raised a point which has been in my mind since I read clause 5, and that is whether or not section 119 of the Code which he quoted regarding obstruction of justice does not, in the light of the jurisprudence, cover all of the things at which clause 5 is directed. The only change is in the penalty which would be fixed at imprisonment to a term not exceeding five years, rather than to a term not exceeding two years which I think is the penalty under the Criminal Code. Looking at the wording under clause 5 quite carefully it would seem to me, from my experience and my recollection of some of the cases which have gone to the courts of appeal, that practically everything that is prohibited under clause 5 would in fact constitute the basis for a charge being laid and ultimately a conviction being secured if the evidence so provided for obstructing justice. That is the question I wanted to ask the minister.