

when he comes to court he stands in danger of himself being bound over by the magistrate. This is the first time that the complainant, the person who sets in motion the wheels of the law, finds himself in jeopardy as a result of his own act.

This is a section that will require a bit of explanation. I should like to know the background of it. What it actually does in effect is this. It places a person who is threatened—who has had an argument with his neighbour, we will say—in a position in which he may well be fearful of setting in motion the wheels of the law in order to prevent possible further and greater breach of the peace, because, if he does that, he may end up by having registered against himself an order of the court binding him over to keep the peace.

Mr. KNOWLES: For twelve months.

Mr. DIEFENBAKER: This is the most unusual amendment that has been brought before the committee in years. I should like to have an explanation of it.

Mr. SMITH (Calgary West): May I join with the hon. member for Lake Centre in asking the minister to drop this. I know whence it comes; because this has to do, as a general rule, with backyard quarrels—

Mr. ILSLEY: That is right.

Mr. SMITH (Calgary West): —between women whose children throw things at one another's windows and that sort of thing.

Mr. KNOWLES: I thought it was to stop the hon. member and me from quarreling here in this house.

Mr. SMITH (Calgary West): No. That is one of my great pleasures in being here. If the hon. member went home, I would go home with him. I know we all want to do something with regard to the thing I am talking about. On the other hand, with great respect I submit that we should not reverse the traditional procedure, and that the complainant should not be bound over to keep the peace. It must be remembered that, in various parts of this country which are thinly settled, we necessarily have justices of the peace who are not experienced in matters of this kind.

I remember that I once worked for the Saskatchewan government. I was adviser to the justices of the peace of the province, and they never had a worse adviser. But I know some of them were simply terrible, solely because of lack of experience. I really do not think we should take this risk. It might be one of ourselves who was set on by somebody else, and when we came to court we might find that the justice bound both of us over.

[Mr. Diefenbaker.]

Because we went over and complained that somebody kicked our teeth in, I do not think we should be bound over to keep the peace. This is one amendment that might well be dropped. I do not think it is so serious that it should remain.

Mr. ILSLEY: I do not press this. I take the view of experienced members of the bar in the committee. I questioned this amendment myself, but I was told that in many cases a fight or quarrel of some kind takes place between neighbours, and one rushes off to the courts to have the other one bound over to keep the peace. The magistrate sees that the fault is about equally divided, and he says to the one, "Yes, I will bind your neighbour over to keep the peace, but you will also be bound over to keep the peace, and you will both stop it." It will, I think, put an end to a great many unjustified applications to the magistrates. But, as both hon. gentlemen seem to think, it may put too much of a curb on justified applications. If that is the feeling about it, then I am content to drop it. It was recommended by these commissioners as a salutary sort of thing to do.

Mr. SMITH (Calgary West): Both these women may lay charges against each other, so that a magistrate can usually bind them both over, if he so wishes.

Mr. ILSLEY: Then, I shall withdraw it.

The CHAIRMAN: Is it the consent of the committee that section 29(2) be withdrawn?

Some hon. MEMBERS: Carried.

Section 29(2) withdrawn.

Section 29 as amended agreed to.

Section 30 agreed to.

On section 31—Appellant remains in custody or gives recognizance or makes deposit in court.

Mr. CHURCH: It seems to me the government is going very far afield in this section. Apparently the amendment provides for a case where an order has been issued for suspended sentence under section 1081. The headnote of section 31 states, "Appellant remains in custody or gives recognizance or makes deposit in court". Many of these are poor people, industrial workers and others who have no money.

The newspapers have been talking about the remand type of magistrates who wish to have time to make up their minds, and then they depend upon some report, for which I can find no provision in any section of the criminal code. Such a code amendment will