

Criminal Code

the scene of a motor accident without reporting it. I am told by those who have the responsibility of enforcing these provisions that in the criminal law, as in economics, you encounter the law of diminishing returns. A heavy increase in penalty does not necessarily result in stricter enforcement. At the present time the punishment for this offence is a fine not exceeding \$1,000, or imprisonment not exceeding twelve months. According to the experience of the enforcement officers, to increase that penalty would simply increase the difficulty of securing convictions. In any borderline cases, the judge or jury cannot help but be influenced by the heavy penalty when deciding the guilt or innocence of the accused. The trend of opinion in connection with all these matters has been in favour of allowing a greater latitude to the court in the matter of the penalty that is imposed and has been away from the idea of increasing, as this clause seeks to do, the minimum penalty.

To take another example, clause 7 provides new sections which the members will see at the top of page 4, with regard to causing deaths in a culpable and negligent manner. I am informed by the responsible officers that this would add nothing but confusion to a branch of the criminal law that is already complicated. The criminal law in this branch is covered now by manslaughter, negligence and reckless driving sections. It is quite true that the jurisprudence bearing upon the punishment for causing death by the blameworthy operation of a motor vehicle leaves much to be desired. It is to be hoped that the persons now engaged in the revision of the Criminal Code will be able to put it into better shape; but I am perfectly certain, Mr. Speaker, that the passage of this particular clause would not have any effect except to make the relatively small amount of confusion we now have worse confounded.

There are a number of other cases in which I believe the proper course would be to consult the provinces. Some of these matters could be handled much more efficiently under provincial jurisdiction and by provincial officers who are charged with the enforcement of the law. For example, clause 5 is a clause which is submitted by the hon. member in a very praiseworthy attempt to increase the penalty and make more strict the law with regard to the failure to stop at level railway crossings. The advice I receive from my officers about this clause is that it is not capable of enforcement in its present form. There is no general opinion that the time has as yet arrived to take it out of the field of highway regulations by the provinces and put it into the field of criminal law by the section of the dominion. We believe it would be a much wiser move to adopt the sugges-

tion of my hon. friend and send it back to the law enforcement officers of the provinces with the suggestion that they might consider whether, from their close experience with the matter, it should be put into effect.

I could continue to go into detail about the rest of the bill, but there is no purpose in my doing so. I do not think the Department of Justice, or I as its head, could take the responsibility of urging upon the members of the house the enactment of this bill. By that, I do not mean to imply there is not a great deal of merit in the hon. gentleman's bill or that many of the points he has incorporated in it, unfortunately with some accompanying disabilities, could not be carefully considered by the committee set up to revise the criminal laws. If my hon. friend has no objection, I believe that is the course we should like to follow in any event. In its present form, however, we could not recommend the passage of this bill to the members of the house.

Mr. Church: As mover of the bill, Mr. Speaker, I believe I have the right to reply. I want to thank the minister for the extremely courteous reception he has given to this bill, but there are some matters which I should like to point out to him. I think we should have a legal committee to consider bills of this description. The House of Commons has never had a chance to revise the Criminal Code, except once, and that was when the code was first passed.

Mr. Fauteux: I rise to a point of order, Mr. Speaker. I am sorry to interrupt my hon. friend, but I understand that he has already spoken and that on the second reading of a bill a member is not supposed to speak twice.

Mr. Church: I was just referring to the fact—

The Acting Speaker (Mr. Beaudoin): Order. I believe that the hon. member for Broadview asked for the opportunity to make a few further remarks following those which have just been made by the Minister of Justice (Mr. Garson). When he rose in his place, the hon. member mentioned the fact that he was merely taking the floor again in order to reply to the remarks made by the Minister of Justice.

Some hon. Members: Yes.

The Acting Speaker (Mr. Beaudoin): Therefore I believe the hon. member should be permitted to take that attitude and have the floor.

Mr. Church: May I point out to you, Mr. Speaker, that I was ready to close the debate. I wish to offer some constructive suggestions to the government. I do not wish to disobey any of the rules of the house; far from it.