

Criminal Code

were false; and second, that the accused made them with the wilful intent to mislead. The essence of the offence is the misleading of the police.

Mr. Diefenbaker: Would the minister mention a couple of those cases he has in which the court has so held?

Mr. Garson: One is the one which my hon. friend has mentioned, that of *Rex v. Leffler*. Is that the one?

Mr. Diefenbaker: Yes.

Mr. MacInnis: If this "wilful" means "wilful intent to mislead", that settles the point; that is satisfactory as far as I am concerned. However, it would mean more to me if it were in the section.

Mr. Garson: I think the only solution to the question posed by my friends the hon. member for Winnipeg North Centre and the hon. member for Vancouver-Kingsway would be to spell this out to an extent which is not usual in a code.

Mr. Fulton: How about substituting the word "maliciously" for "wilfully"?

Mr. Garson: No. I do not think that would do it. What might be done would be to make it read as follows. When I give this wording my hon. friends will see the awkwardness which arises when one attempts to spell it out. We could make it read in this way:

Every one who causes a peace officer to enter upon an investigation by wilfully . . .

(c) reporting that an offence has been committed which has not been committed when he knows that it has not been committed or when he does not have reasonable grounds to believe that it has been committed.

It is true that this wording is awkward, but if we start to spell it out and do not finish the job, in my judgment it is much better to leave the clause as it now is. If we do finish the job by spelling it out to the extent which I have indicated, it sounds pretty awkward. In connection with every one of these sections—

Mr. Knowles: How about allowing it to stand?

Mr. Garson: —I think it is important that we try to evaluate and act upon every worth-while suggestion that we can get from every member of the house in order to produce as good a code as possible. Perhaps if we were to let this section stand, and if my hon. friends who have made this suggestion are sufficiently interested, I should be glad to confer with them and to try to produce a wording which would meet their

approval. Then we could bring it back and see whether it met with the general approval of the committee.

Mr. Knowles: That procedure would be quite satisfactory, Mr. Chairman.

Clause 120 stands.

Clause 122 agreed to.

On clause 123—*Advertising reward and immunity*.

Mr. Shaw: Under subsection (a) I take it that two things must occur at one and the same time before an offence has been committed, namely that the reward has been offered and that immunity has been guaranteed. Am I correct in assuming that the mere guarantee of immunity in itself would not constitute an offence?

Mr. Garson: I should not like to say that the guarantee of immunity would not carry the penalty or constitute an offence. The principle of this clause is that of discouraging practices which may tend to the compounding of crimes between the person who is advertising and the person who has committed the crime. Of course my hon. friend is right in saying that if the crown makes a charge under section 123 (a), the crown must prove all of the ingredients of that charge as stated in the subsection. But it might be that if a person offered immunity, the other circumstances of the case were such that, although an offence could not be charged under this section, it could perhaps be charged under some other section of the code.

Mr. Shaw: May I ask one other question in connection with this matter? The section refers to advertisement. What is the situation if one were to have a letter printed in a newspaper and in that letter offered a reward and also offered immunity? Could the person be charged? The section states specifically that it must be an advertisement.

Mr. Garson: In order to support a charge under this section—in my view my hon. friend is quite right—it has to be an advertisement. If you are going to prove an offence under section 123 (a), you have to prove that the accused publicly advertised a reward and used words to indicate that no questions would be asked. You have to bring him right under that section.

Mr. Winch: It is just in view of the statement made by the minister that I rise at this moment. A few moments ago he stated that the reason the provision is in here is that you would be compounding a felony if you offered a reward with no questions