

THE SENATE

Wednesday, July 16, 1947.

The Senate met at 3 p.m., the Speaker in the Chair.

Prayers and routine proceedings.

CRIMINAL CODE BILL

CONCURRENCE IN CONFERENCE AMENDMENTS

The Hon. the SPEAKER: Honourable senators, a message has been received from the House of Commons, in the following words:

That a message be sent to the Senate to acquaint Their Honours that the amendments agreed to in the Free Conference with the Senate to Bill 364, An Act to amend the Criminal Code, have been agreed to.

The amendments were read by the Clerk as follows:

Amendments agreed to in the free conference of the managers of the Senate and the House of Commons in respect to Bill 364, an Act to amend the Criminal Code:

1. Delete amendment number two of the Senate and substitute the following therefor:

"2. Delete all the words in Section 222B after the word "one", in line twenty-four, to and inclusive of the word "otherwise" in line twenty-eight and substitute the following:

"not being in a dwelling house, who causes a disturbance in or near any street, road, highway, restaurant, railway station, public library, tavern, billiard hall, theatre, shop or other place to which members of the public are admitted, whether as a matter of right or otherwise."

2. Delete amendment number fifteen of the Senate and substitute the following therefor:

"15. Delete paragraph (d) of clause 7, on page 3, lines twenty-four to twenty-eight inclusive, and substitute the following:

"(d) if he uses or has upon his person any weapon during or at the time of the commission or attempted commission by him of any of the offences in this section mentioned or the flight of the offender upon the commission or attempted commission thereof, and death ensues as a consequence of its use."

Hon. ELIE BEAUREGARD moved concurrence in the amendments.

He said: Honourable senators, in asking the house to concur in the amendments agreed to in the conference of the managers of the Senate and the House of Commons in respect to Bill 364, intituled, "An Act to amend the Criminal Code", I wish to say a few words in order to acquaint the members of the house with the meaning of these amendments.

The amendments to Bill 364 which were submitted by the Senate Standing Committee on Banking and Commerce may be found in the *Minutes of the Proceedings of*

the Senate of Canada, No. 54, of July 10. Of these amendments, thirty-two in number, more than fifteen were of a very minor nature. However, the House of Commons did not agree with the second and fifteenth amendments.

I do not need to say much about the change in the Senate's second amendment, because it leaves that amendment very much as it was. The object of introducing the words "dwelling house"—which was agreed to by the representative of the Department of Justice—was to make it clear that one who sang or whistled in his house would not be looked upon as a criminal nuisance. The chairman was of the opinion that this already was the fact, and that the Senate merely wanted to make it clear.

As to Senate amendment No. 15, which is to be found in the *Minutes of the Proceedings* of July 10, the change is more important than the first one. Section 7 of Bill 364 as presented to the Senate, reads as follows:

Section two hundred and sixty of the said Act is further amended by inserting immediately after paragraph (c) thereof, the following:

"(d) if he uses any weapon for the purpose of facilitating the commission of any of the offences in this section mentioned, or the flight of the offender upon the commission or attempted commission thereof, and death ensues as a consequence of such use."

The offences mentioned in section 260 are murder, rape, forcible abduction and so on. The Senate committee recommended the deletion of paragraph (d) of clause 7 and the substitution of a new paragraph (d) which reads:

(d) if he uses or has in his possession any weapon and death ensues as a consequence of its use.

The House of Commons would not agree to this amendment, and the Managers at the Free Conference drafted an entirely new paragraph which is a compromise between the original text and that offered by the Senate. I think the new paragraph is a change for the better, because the words "has in his possession", in the Senate's amendment, might result in the conviction of a person who had a weapon somewhere among his belongings, but not upon his person, at the time of the commission or attempted commission of an offence.

The proposed new paragraph reads:

(d) if he uses or has upon his person any weapon during or at the time of the commission or attempted commission by him of any of the offences in this section mentioned or the flight of the offender upon the commission or attempted commission thereof, and death ensues as a consequence of its use.