

that we passed the other day we gave to customs and excise officers the power, in the exercise of their duty, to examine witnesses on oath. This, I think, is to make further provision in the same regard.

Section 1 was agreed to.

On section 2—promoting changes by unlawful means:

Hon. SMEATON WHITE: I would move that section 2 be dropped.

Hon. Mr. L'ESPERANCE: I second the motion.

Hon. Mr. DANDURAND: I have moved a similar amendment on two or three occasions. My motions did not meet with success. I do not intend to repeat what I said at those times. All I desire is to state that clause 98 was enacted in 1919, when what seemed to be a dangerous campaign was carried on in a certain part of the West. Section 98 is exceptional legislation, and is quite harsh in some of its provisions. It has been considered that Canada can well afford to return now to the general law and wipe out exceptional legislation carried through hastily, in a period of excitement and fear. This provision has not been utilized, and it is quite apparent that the respect for law on the part of our people is such as to justify Canada in returning to the old common law of England. The matters referred to are covered by our statutes and by the common law.

Hon. Mr. DANIEL: By what statutes, may I ask?

Hon. Mr. DANDURAND: By our Criminal Code, under the clauses concerning sedition. Some years ago a committee of the British Parliament attempted to define sedition, but came to the conclusion that the interpretation of the term by the courts from decade to decade was involved in a multitude of cases and would be difficult to define. The term is so broad and so elastic that it gives the authorities and the courts power to deal with any overt act that threatens the peace of the country and the sovereignty of the Crown. In order to make sure that the definition of treason and sedition should be consistent with democratic institutions and should not prevent the freedom of speech in criticism of government, it was deemed proper to make an exception modifying to a certain degree the common law of England on the subject. That exception was wiped out when the amendments of 1919 came into force. If we restore the law as it stood before 1919, by

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repealing clause 98, it will be proposed that we re-enact the former section 133 as section 133A. It reads:

No one shall be deemed to have a seditious intention only because he intends in good faith,—

(a) to show that His Majesty has been misled or mistaken in his measures; or,

(b) to point out errors or defects in the government or constitution of the United Kingdom, or of any part of it, or of Canada or any province thereof, or in either House of Parliament of the United Kingdom or of Canada, or in any legislature, or in the administration of justice; or to excite His Majesty's subjects to attempt to procure, by lawful means, the alteration of any matter in the state; or,

(c) to point out, in order to their removal, matters which are producing or have a tendency to produce feelings of hatred and ill-will between different classes of His Majesty's subjects.

As the courts had such great power to curb sedition and treason, it was provided in this way that there should be no limitation of legitimate freedom of speech in the criticism of a government. In normal times we should respect British traditions by re-enacting this section, which prior to 1919 was deemed to be sound law. I have previously discussed this subject on a much wider scale. I am suggesting now that we return to the status quo ante. This country was able to cope with sedition before 1919, and if we re-enact the law that was found sufficient at that time Canada will continue to maintain peace and order within its borders. As the law now stands it is regarded by many people as a threat against their freedom of speech, and I believe that the time is opportune for the amendment.

Hon. Mr. WILLOUGHBY: I do not intend to go into this matter in great detail, but I have discussed the subject several times before—

Hon. Mr. DANDURAND: If my honourable friend will allow me—I do not know whether it is a proper thing to state—I should like to say that this Bill comes to us after much discussion in the other House, which finally was unanimously in favour of the repeal of section 98.

Hon. Mr. WILLOUGHBY: It is equally true that it has been unanimously resolved in this House that section 98 should not be repealed.

Hon. Mr. BELCOURT: Did my honourable friend say it was unanimously resolved?

Hon. Mr. WILLOUGHBY: If I said "unanimously" I did so in error and I withdraw that word. The proposal to repeal section 98 has often been rejected in this