

Criminal Code

warning from the provincial health people and those responsible the guilty party refuses to stop it or do something to divert it.

Mr. Martin: I think I should say a word or two in view of the earlier remarks of the hon. member for Prince Albert. The situation now is, as I said this afternoon, that no one can positively say what is the cause of this pollution. When the matter was first raised, the government of Alberta thought it knew the source; and after the technical officers from the Department of National Health and Welfare and the public health department in Alberta conferred with the particular corporation—and there was full co-operation given by that corporation—it later became clear from certain other evidence that there could be no certainty as to the cause. I would not rule out what my hon. friend has suggested as a possible cause, nor would I affirm that that was the cause.

Mr. Low: No one would.

Mr. Martin: The fact is that the technical people in both federal and provincial governments are co-operatively engaged in trying to ascertain the cause of this pollution, the seriousness of which no one in this house will deny, from the point of view of odour and from the point of view of taste in particular. In addition to that, co-operation has been enlisted of the public health engineering division of the United States public service, from their industrial hygiene laboratory in Cincinnati.

The Minister of Justice has indicated that the Criminal Code as it is constituted at the present time provides remedies; but in addition to that, so our perspective will be clear, I shall call the attention of the committee to the fact that in the province of Alberta, as in other provinces, legislation exists to meet this very kind of situation. The public health act, as amended by chapter 53 of 1944, in the province of Alberta provides in section 12 (1) the following:

The provincial board shall have the general supervision of all springs, wells, ponds, lakes, streams or rivers used as a source of a public water supply, or for agricultural, domestic or industrial purposes with reference to their purity, together with the waters feeding the same, and shall examine the same from time to time when the necessity for such examination arises, and inquire what, if any, pollution exists and the causes thereof.

In subsection 2, without reading it *in extenso*, authority is given to the provincial board:

... to inquire into and determine any complaint made by or on behalf of a riparian proprietor entitled to the use of water, that any industrial waste or any other polluting material of any kind whatsoever, which either by itself or in connection

with other matter may corrupt or impair the quality of the water or may render such water unfit for accustomed or ordinary use . . .

And so on. Then in subsection 3 we find the following:

The provincial board may make a report to the minister upon such complaint and as to what remedial measures, if any, are required in respect to any alleged injury or invasion of right as it may deem just.

Subsection 4 reads in part:

Where the report of the provincial board recommends the removal or degree of treatment of any such polluting material, any riparian proprietor interested or the minister may apply to a judge of the supreme court or to a district court judge by way of originating notice . . .

—to deal with the situation; and this judge is empowered in subsection 5 to make:

... such order upon the report of the provincial board, or upon such further evidence as he may deem meet, and on such terms and conditions as may be deemed proper.

I am satisfied from the conversations I have had over the telephone and by telegram with the responsible provincial authorities that once the facts are properly ascertained there will be no reluctance on their part to deal with this measure as effectively as this law provides.

Mr. Diefenbaker: Mr. Chairman, first I wish to say in answer to the Minister of Justice that, to use his own words in reference to myself in regard to another matter, he either deliberately or unwittingly misconceived what I placed before this committee this evening. I in no way gave him grounds for the argument that after all before you can convict you have to have a case. That would be rudimentary even to the Minister of Justice.

What I did say was that the criminal law as it is now constituted, the sections in question, do not cover a situation such as prevails in consequence of the pollution of the North Saskatchewan river. I came before this committee for the purpose of appealing to the minister to give consideration to amending the Criminal Code, the sections in question, in order to cover a situation which more and more is affecting various parts of our country and which inevitably must be met by the Criminal Code.

I suggest changes in these two sections in order to permit prosecution once it has been established—it is so obvious that it does not need to be mentioned at all—that responsibility has been placed with the individual or corporation responsible for the condition. The Minister of National Health and Welfare says the legislature of Alberta has the power to act, and he referred to certain sections. Now,